

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
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COMMITTEE ON NATURAL RESOURCES  
February 10, 2005  
LB 189, 638, 23

The Committee on Natural Resources met at 1:30 p.m. on Thursday, February 10, 2005, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB 189, LB 638, and LB 23. Senators present: Ed Schrock, Chairperson; Elaine Stuhr, Vice Chairperson; Carol Hudkins; Gail Kopplin; Bob Kremer; LeRoy Louden; Vickie McDonald; and Adrian Smith. Senators absent: None.

SENATOR SCHROCK: Good afternoon. For the record, my name is Ed Schrock, I'm from Holdrege, Nebraska, and I chair the Legislature's Natural Resources Committee. I will introduce the other people here at the table with me. To my far right is Senator LeRoy Louden from Ellsworth; Senator Louden is a rancher. Senator Gail Kopplin is next to him; he is from Gretna and is a retired school superintendent. Next to him is Senator Carol Hudkins from Malcolm and she's a new grandma amongst other things. Next to Senator Hudkins is Jody Gittins, the committee counsel. To my left is Senator Elaine Stuhr from Bradshaw and she's a grandmother more than once.

SENATOR STUHR: Right. Six times.

SENATOR SCHROCK: And celebrated a big wedding anniversary not too long ago.

SENATOR STUHR: No, no. (Laughter)

SENATOR SCHROCK: I got to say something about everybody.

SENATOR SMITH: Uh-oh.

SENATOR SCHROCK: And next to her is Senator...oh, Senator Stuhr is vice chair of the committee. Next to her is Senator McDonald, who made a move all the way from the metropolitan area of Rockville to St. Paul, Nebraska, and then Senator Adrian Smith from the metropolitan area of western Nebraska of Gering.

SENATOR SMITH: That's enough. That's enough.

SENATOR SCHROCK: And Bob Kremer, the dapper Agricultural

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Committee chair from, where is that little town, from Aurora, Nebraska. And to the far end is Senator, not Senator, is Barb Koehlmoos, committee clerk. And our page today, no page?

SENATOR KREMER: Yeah, he went to get some...

BARB KOEHLMOOS: He's getting some supplies.

SENATOR SCHROCK: I'll catch him later.

BARB KOEHLMOOS: Here he comes.

SENATOR KREMER: Here he comes.

SENATOR STUHR: Here he comes.

SENATOR SCHROCK: Our page today is Eric McCormick from Grant, Nebraska. He's a junior at UNL and we appreciate Eric being with us. Any girlfriends, Eric?

ERIC MCCORMICK: No.

SENATOR SCHROCK: No. (Laughter) Well, we could help on that subject matter, so. If you have a cell phone, please turn it off or silence it. If you wish to testify on a bill, come to the front of the room when that bill is to be heard. If you are going to testify, please grab one of the sheets in the corner of the room and fill it out. If you testify on more than one bill, please fill out a green sign-in sheet for each bill. When you come forward, please spell your name for the record. If you have handout material or want a drink of water, our page will accommodate you there. That's about all, and we will get started. And we're going to change the order we hear these bills today to accommodate some of the other senators' schedules, so Senator Hudkins will go first and she will start out with LB 638.

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SENATOR HUDKINS: Thank you, Senator Schrock and members of the Natural Resources Committee. Boy, these microphones are loud. For the record, my name is Carol Hudkins,

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H-u-d-k-i-n-s, and I represent the 21st Legislative District. Today I'm presenting LB 638, which is aimed at removing some of the confusion that currently surrounds how voting boundaries are determined for public power districts. My bill seeks to accomplish this by redefining what constitutes a district's operating area. Now this bill makes perfect sense if you don't read it. The language is quite confusing and so just listen to what I say and don't read the bill. Under current law, a public power district's operating area is made up of both its retail and wholesale distribution areas. By reducing the operating area to only the retail distribution, LB 638 would limit those who could vote in a given public power district's election to the retail rate payers in that district. In other words, there would be no more overlap between the retail and wholesale distribution areas, and as a result, no more confusion as to who should be allowed to vote in that district. This is a very complex issue and has been around for quite some time. As a matter of fact, on December 14th, 2004, Secretary of State Gale and Governor Johanns cosigned a letter to Senator DiAnna Schimek, voicing their concern and encouraging the Legislature to take a look at it. Now, I'm not going to pretend that I understand all of the intricacies involved with this bill. Actually, the bill was suggested to me by Mr. Bob Twiss from Gretna, and he is largely responsible for initially drawing attention to this confusion that surrounds the public power district elections. And fortunately, Mr. Twiss is here to testify in favor of the bill. Because of his past involvement in this area, he'll be able to explain both the bill and the situation that it seeks to address, far better than I can. So I would ask that you direct to him any questions that you might have. And also, I would suggest that this bill would be a perfect candidate for an interim study to take care of this problem. Thank you, Senator Schrock.

SENATOR SCHROCK: Thank you, Senator Hudkins. Are there questions? Senator Hudkins, I have a question. Grand Island is now a municipally served power city.

SENATOR HUDKINS: Okay.

SENATOR SCHROCK: And I noticed in the last election, we had a candidate from Grand Island and a candidate from Kearney. Kearney is served by NPPD, but Grand Island has a municipal

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system, but they can both vote, they can both have people run from those areas. Would this preclude the citizens of Grand Island from voting for the NPPD board and preclude a candidate from that area running for the NPPD board?

SENATOR HUDKINS: Was it a retail customer in both cases?

SENATOR SCHROCK: There is no...the NPPD does not, I don't believe, has retail customers in Grand Island...

SENATOR HUDKINS: Just, okay...

SENATOR SCHROCK: ...because it's a municipal service...

SENATOR HUDKINS: Yeah, and I don't know...

SENATOR SCHROCK: ...and they have their own generating facility, but I'm sure they're connected with NPPD and power goes both ways.

SENATOR HUDKINS: Yeah, and I don't know the answer to that, Senator Schrock. Maybe Mr. Twiss can help or maybe someone who's here with the public power districts can answer that.

SENATOR SCHROCK: Okay. All right.

SENATOR HUDKINS: All right.

SENATOR SCHROCK: Thank you.

SENATOR HUDKINS: Thank you.

SENATOR SCHROCK: The first proponent, please.

BOB TWISS: Good afternoon, Chairman Schrock and other members of the committee. My name is Bob Twiss, that's T-w-i-s-s, as in Sam, Sam, live at 433 Sherwood Drive, Gretna, Nebraska, and I'm here to speak in favor of LB 638. I thank Senator Hudkins for introducing the bill. Also, some of you in past years may have heard me talk about the problems with the power district. I think Senator Kopplin probably listened long enough, at least during his campaign, that he thought at least we have a problem identified. And some others who used to be on the Government Committee, I know, Senator Schrock, I've been before you before as well.

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The problem wasn't even identifiable until I filed for office in 1998 to run for the South District of OPPD. And I'm not a novice to any campaigns. I lost a very close election in '92 by a matter of less than a handful of votes at that time, so I've been around the horn, helped many others with the political process as well, and I was astounded to find out that we had this kind of election still existing in the state of Nebraska where both, in this case, we're talking primarily part of Sarpy. At that time Saunders was also included, however Saunders has now been moved over to the North District after the last census. But we're talking the western southern part of Sarpy, Cass, Otoe, Johnson, Nemaha, Pawnee, and Richardson Counties, and when we get outside of Sarpy in Cass, Otoe, Johnson, Nemaha, Pawnee, and Richardson, both large power districts basically certify the same territory with some exceptions for cities such as you brought up, Senator Schrock. Some of the exceptions are Nebraska City, for example, generate their own power, and they also serve many, many small villages along the way, including up to and including some in Lancaster County. Auburn is excluded, Plattsmouth is excluded, Falls City excluded, also Pawnee City, and Humboldt and incidentally during the election in 1998, there were over 600 votes that were messed up and confused in Pawnee's County itself. That is not because of the election official in Pawnee County that tried to help clarify the situation. But when we found out about the dual certification in most of the, at least, geographical territory, my wife and I went to every courthouse in every county and said, can I see the hymnal and let me see if we're singing out of the same hymnal and then realize that we were, and even after that there were a lot of confusion and difficulty in the area. We also have examples of folks in Johnson, Nebraska, for example, not served by either large power district; they're served by Auburn, Nebraska, but yet they can vote in both elections and that surprises even the people of Johnson, Nebraska. So what we're really looking at is a situation, which would be akin to having that 12th man on the football field, for example, and sometimes the official might notice it, and other times the official might not, so let's say we've got a couple split ends out there so how does the defense react to that and perhaps at half-time, we called it to the election official's attention, or excuse me, the official's attention in this case, and they tried to do a better job, but yet the

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problem still exists of having that 12th man out on the field. So a great deal of confusion and even folks in the stand turned away from the game because they didn't understand the difficulty associated with it as well. So we also have perhaps 20 and 30 percent of those people in the stands that turn away from it. They had come to the polls or to the game, but yet they failed to vote because of all the confusion in there. The bill as drafted does have some unintended consequences to it because what I was concerned about were the two big power districts in the state of Nebraska at the time in the area that I was most familiar with. Since then, I've had also considerable conversation with others in the industry, also some board members from OPPD, who are not opposed to this attempt to try and clean up the election as well in there. But the unintended consequences, I think, lead us to the suggestion for an interim study and perhaps if another committee such as Government should or could be involved, I leave that up, obviously, to your discretion and would like some sort of resolution so that we can have a level playing field without the confusion that exists out there. It's not fair to the voters, it's not fair to the candidates at all that we have this type of situation in the state.

SENATOR SCHROCK: Thank you, Bob. Are there questions?  
Senator Louden.

SENATOR LOUDEN: Yeah. Thanks for coming and testifying today. What this bill does, then, if you're not served by that power district with a meter and service, then you don't vote?

BOB TWISS: Basically, yes. We geared it toward the retail situation because that would help clean it up from the aspect that, for example, to be very blunt, NPPD in Cass all the way down to the Kansas and Missouri borders in those counties, basically does not have much to do with the rate payer or the customer except for those six communities I mentioned. For example, Plattsmouth is because NPPD does serve Plattsmouth at retail. Nebraska City generates their own, and NPPD doesn't have anything to do with that, but yet they certify you. What the NPPD does is they basically certify the whole county. They certify everything. OPPD is the one that took the exclusionary approach to exclude those six communities that I mentioned. Nebraska City generates

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their own, Auburn generates their own; they also serve Johnson and two or three other smaller villages in the area. Falls City basically buys wholesale from OPPD, but they serve their own customers at retail. Humboldt and Pawnee City are served by NPPD at retail and there's all kinds of other varying examples in there. I don't know for sure if I answered your question, and incidentally, there is another bill, LB 340, that this committee did hear, and I think it's still in committee. It also attempts to address some of the same issues or at least similar issues in there. Now, to try and, let's say, correct this, we could have, perhaps, reduced the number of inhabitants in a county, and that's a 75,000 threshold right now, and I think that's in Statute 70, and I don't remember the exact number, I think it's 602, subsection 2, if I remember right, or 601. But we could have tried to take that approach, we could have also taken a revenue approach, and we still could to try and correct some of the unintended consequences with this, with this bill, LB 638. And we could raise the threshold on the revenue, for example, from the \$40 million annual gross revenue; we could raise it up to \$500 million gross revenue, and that would only affect the two large power districts. But I'm not sure if I...I'm trying to answer your question, but I'm not sure...

SENATOR LOUDEN: Well, I was going to say, you got into revenues part and my question was, was who's the one to vote? Now, you were running for Nebraska Public Power?

BOB TWISS: No. I was running for Omaha Public Power District...

SENATOR LOUDEN: Omaha Public Power.

BOB TWISS: ...in the south, what they call the south subdivision or south district.

SENATOR LOUDEN: Okay. And there were some people that belonged that were served by what public power district, then, that had dual voting?

BOB TWISS: The dual...they were served by OPPD.

SENATOR LOUDEN: Omaha Public Power?

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BOB TWISS: Yes. Keep in mind, I'm excluding those six cities that OPPD excluded from their election certification.

SENATOR LOUDEN: Could the people, then, in those excluded cities...

BOB TWISS: Right.

SENATOR LOUDEN: ...could still vote for OPPD?

BOB TWISS: Yes, they could vote for OPPD...excuse me, no, they could not. They could not. Plattsmouth, Nebraska City, Auburn, Falls City, Humboldt, and Pawnee City, all six of those were excluded from the Omaha Public Power District election. They were included in NPPD. All of the other area in the counties south of Sarpy were included in both elections. A good example of that, perhaps to clarify this, is Tecumseh. All of Johnson County is certified by both power districts in their election, and yet NPPD does not serve Tecumseh. OPPD serves Tecumseh at wholesale and Tecumseh, city of Tecumseh, retails.

SENATOR LOUDEN: Okay. And then, are you wanting to exclude the voters in Tecumseh, then?

BOB TWISS: Oh, not at all, not at all.

SENATOR LOUDEN: Okay. In the OPPD...

BOB TWISS: They should be in the OPPD election.

SENATOR LOUDEN: Then they're under retail...they would be under OPPD's retail, though, wouldn't they?

BOB TWISS: Correct. They would be.

SENATOR LOUDEN: Rather than the wholesale...

BOB TWISS: Correct.

SENATOR LOUDEN: ...deal.

BOB TWISS: That's correct.

SENATOR LOUDEN: Okay. Thank you.

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SENATOR SCHROCK: Other questions for Bob? I have some questions, but I might save them for Jay if you're going to come forward, Jay.

JAY HOLMQUIST: No. I'm heading for the door.

SENATOR SCHROCK: I just have some questions. Is everybody in the state included in a public power district for voting purposes? And maybe Jay is better qualified to answer that than you are.

BOB TWISS: Let me approach it from this aspect, that they would not...they're included in election for a power district, but not necessarily the right one. For example, one could be served by LES, live outside the city limits and probably they're certified to vote in NPPD's election, doubtful that they're certified to vote in OPPD's election, but yet they have no direct vote on the utility board quote that directly serves them, such as Lincoln City Council, for example, that probably appoints the LES board. Does that...

SENATOR SCHROCK: Well...

BOB TWISS: ...confuse it even further?

SENATOR SCHROCK: Yeah, but I know where you're headed. I just, but I'm going to ask Jay some of these questions if he's the only one from the power representatives coming up. Other questions for Bob?

BOB TWISS: Okay.

SENATOR SCHROCK: All right.

BOB TWISS: And incidentally, I understand that perhaps there is a letter, or an additional letter will be forthcoming from the Secretary of State's office too, perhaps.

SENATOR LOUDEN: I got one question, Senator Schrock.

SENATOR SCHROCK: Go ahead, LeRoy...Senator Louden.

SENATOR LOUDEN: If this bill passes, then how does it

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affect some of those public power districts out in the western end of the state that you can vote in the rural areas where the public power districts are? But where Nebraska Public Power has control of the towns, I think the people in town have to vote for Nebraska Public Power directors. Will this have an effect on them, on how they do business now? Because out there, it's more or less a matter of if you're served, you get to vote for them, you get to vote.

BOB TWISS: As currently written, I believe that the bill would have a negative effect upon their voting. As currently written, because of the \$40 million gross revenue limit and the unintended consequence that we certainly didn't intend to happen when we brought the bill forward and the problem forward. And incidentally, I've testified at the canvas board in 1998 and again in 2004. I've testified before some other committees before, so as Senator Hudkins and others have said, this problem has been around here for a while and I thank the Secretary of State and former Governor Johanns for also sending a letter and saying it's something that we need to look at, and let's throw the flag, look to the Legislature to be the referee in it, and let's create a level playing field for all concerned.

SENATOR LOUDEN: Okay.

BOB TWISS: And it's probably also why we're...I would suggest an interim study at this time.

SENATOR SCHROCK: Thank you. Any other questions for Bob?

BOB TWISS: I'll hang around in case there's additional questions too.

SENATOR SCHROCK: All right. Thank you for being with us, Bob.

BOB TWISS: Thank you.

SENATOR SCHROCK: (Exhibit 1) I do have a letter in support from the Secretary of State John Gale, and it says, it supports the general concept envisioned in LB 638. Jay, go ahead.

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JAY HOLMQUIST: Mr. Chairman, members of the committee, my name is Jay Holmquist, spelled H-o-l-m-q-u-i-s-t. I'm the general manager of the Nebraska Rural Electric Association. We represent 35 rural electric systems in the state. Twenty-six of those are rural public power districts and subject to the general election laws of the state and could be impacted by LB 638. I'm here today in the, I checked the proponent box. I don't want to give anybody the impression that we support the provisions of LB 638 as drafted, but we do support what Senator Hudkins talked about and what Mr. Twiss talked about, in that we feel that an interim study to look at this issue would be appropriate and helpful. A couple weeks ago, Kristen Gottschalk, our government relations director, testified on LB 340 and talked about a similar issue that we have encountered in some of our public power districts' elections where there may be an unincorporated area that is not served by the public power district. It might be served by another municipality or by NPPD, but because it is included within the chartered territory of the district, those individuals that reside there can vote for the board of directors or run for the board of directors. So we can wind up with somebody that isn't a retail customer serving as a director of a public power district. We would like to come up with a solution that works to avoid that problem, but coming up with a solution is not all that easy. Senator Hudkins' bill tried to do it through tweaking the definition of operating area and that may turn out to be the best way to go about it. We took a somewhat different route in LB 340 that, I think as Kristen pointed out, would have the unintended consequence of disenfranchising some people that we don't want to disenfranchise. But ultimately, we would like to have or at least improve on the situation that exists today where you can have people that are not retail customers of the public power district serving on the board of directors. There were questions earlier about Grand Island, using Grand Island as an example. Senator Schrock, you brought that up, and that is one of the things that I think even NPPD is willing to look at. Grand Island is served by their own municipal electric system, but you can have people vote for and run for the NPPD board of directors from Grand Island. I think the same is true of Hastings, and then if you look at Lincoln, we have two directors on the NPPD board that live in the city of Lincoln. Now, Lincoln used to have a significant relationship with NPPD because

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they were participants in the Cooper Nuclear Station, and they also have participation agreements in some other NPPD power plants. But they are not involved in Cooper Nuclear Station anymore. The take that they have of wholesale power from NPPD is much less than it used to be, so one might question whether you should have board members on the NPPD board from Lincoln. That's something that I think the interim study can look at and, before I confuse you further, maybe I just better stop, say we support an interim study, and would pledge to work with the committee on that. Be happy to answer any questions.

SENATOR SCHROCK: Questions for Jay? Is everybody in the state included in either an OPPD or NPPD voting area?

JAY HOLMQUIST: I don't think so, but most of the people probably are. I mean, I think you heard Bill Fehrman testify yesterday that if you look at NPPD's, I think, I can't remember, if chartered area, what term he used, but he talked about, basically, operating in 91 of the state's 93 counties, and so a large part of the state, almost all of the state, I think, is included in NPPD's chartered area. It becomes very confusing because the statutes talk about chartered area and operating area and if you have questions, maybe Tim Texel, who's sitting behind me, from the Power Review Board might be a good person to ask. But we have, of course, of our membership, our members out in the western part of the state are served by Tri-State Generation and Transmission Cooperative, Inc. out of Colorado, so their wholesale provider is not NPPD and they would not live, you know, in a municipality that's served by NPPD, but they might still get to vote for the NPPD board. So I think there are a number of things that the study needs to look at. The problem is that once you start making adjustments, you run the risk of disenfranchising people that really should be able to vote for or run for the power district board. I mean, there is a reason why the statutes are written the way they are. Most of us weren't around when they were written, so we might have forgotten or might have never known why they were written that way. So we need to be careful in what we do.

SENATOR SCHROCK: Other questions for Jay? Jay, to serve on a rural electric board, you have to be in the retail area and be a customer, would that be fair enough?

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JAY HOLMQUIST: No.

SENATOR SCHROCK: You don't have...

JAY HOLMQUIST: Not in all cases. And that's what LB 340 was aimed at, trying to ...

SENATOR SCHROCK: Well, do you...

JAY HOLMQUIST: ...correct that situation, but...

SENATOR SCHROCK: So you could, let's say, if you're on the Southern Power, or is it South Central Power have any municipal powers in it?

JAY HOLMQUIST: Oh...

SENATOR SCHROCK: Well, let's take Southern, for example.

JAY HOLMQUIST: Okay.

SENATOR SCHROCK: Grand Island is in the service area of Southern Power District. Do they have a board member or do they vote on Southern Power?

JAY HOLMQUIST: I don't think Grand Island does in that case because you can exclude municipalities from your chartered area if you don't serve them, but in some cases, especially if you're dealing with a very small community or it might be an unincorporated area because you don't want to split sections, for example, you wind up just going ahead and including them in your chartered area, those individuals can vote for and run for the board. If you start splitting sections and excluding those areas, then it becomes very difficult for the election officials to tell who can vote for the power district and who can't. And it also can create some headaches for the Power Review Board and they've been in the process the last couple years of redoing the maps to show where the chartered areas of all the public power districts are and it can be very confusing. And I have a lot of sympathy for Mr. Twiss and his comments, especially when you get into southeast Nebraska where people can vote for both the NPPD and OPPD board. It becomes somewhat of a nightmare, I think.

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SENATOR SCHROCK: Okay. Thank you, Jay. If there's no further questions, next proponent. Is there opponent testimony? Is there neutral testimony? I was hoping somebody would bring some maps.

TIM TEXEL: Don't have any maps. Senator Schrock, members of the committee, my name is Tim Texel and it's T-i-m, last name T-e-x-e-l. And I'm the executive director and general counsel with the Nebraska Power Review Board. And the board at its last public meeting authorized me to testify today in a neutral capacity on LB 638. I think I'm going to address what Mr. Twiss brought up as some of the unintended consequences, when I talked with him and Senator Hudkin's office, that this bill might do. What I wanted to point out in particular is just as drafted, I'm not dealing with really the concept that Mr. Holmquist or Mr. Twiss or Senator Hudkins brought up. But as it's drafted, I wanted to bring out some points, and in my opinion, LB 638 as it's in its current form could make 29 of Nebraska's 32 public power districts unable to function, I think, as it's in its current form. It would essentially cause them to cease to exist as power suppliers. The reasons is under LB 638, it states that the operating area of a public power district is the retail distribution area of a district within which the district delivers electricity that it generated or produced. Well, most of our public power districts in Nebraska don't generate or produce their own power. They receive it wholesale and then they retail it to their customers, so that would kind of leave OPPD, NPPD, and Loup River, I think, standing as those that generate and have retail customers left. And even they don't generate and produce all of their needs all the time. They also purchase wholesale from the market, from other participants. But those do have generation facilities, unlike most of the other districts. And the bulk of which the wholesale in Nebraska, I think, is mentioned, is from NPPD, Nebraska Public Power District, and the Tri-State Generation and Transmission in the western part of the state. As I read LB 638 in its current form, it says that the public power districts that only distribute electricity generated by someone else would have no operating area. Section 70-603, subsection 5 states that the chartered territory for a public power districts operating in less than 50 counties shall include the operating area of the district. So if

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they have no operating area, their charters might need to reflect that and thus the problem. If they don't have an operating area and if they don't have the ability to have that in their chartered area, I'm not sure that they could function as they do now. And I realize that's unintended consequence, but I wanted to bring that up and I think that pretty much is my testimony on that. I think one, if I might, the question Senator Schrock, you had on Grand Island, if I understood it right, as this bill is drafted, since Grand Island wouldn't be in the retail area of NPPD, I don't think that they'd be voting for NPPD's board if this bill were passed is the way I read it. Because it limits the retail side of it and gets rid of the wholesale factor. And NPPD, I believe, I don't deal with this area specifically, but NPPD, the statute under which they have voting in so much of the state is that, I think it's 70-603, subsection 2 that Mr. Twiss was citing to. It says, if a public power district operates in more than 50 counties in the state, that they can certify the entire state in any county where they have wholesale or retail operations, something to that effect. That's why their...that NPPD doesn't operate and have voting in Douglas and Sarpy because there's an exclusion in there that says if you have 75,000 people in the county and the district doesn't serve the largest municipality there, that you can exclude that county. So Douglas and Sarpy are excluded, but everywhere else, NPPD has either wholesale or retail operations, transmission operations, et cetera, so it is a confusing area. But I did want to bring that point up as with the bill as drafted. With that, that would conclude my testimony. I'd be welcome to answer any questions.

SENATOR SCHROCK: Any questions for Tim? Tim, I might suggest and we'll probably talk about this in exec session, I might suggest that probably you and a representative from the rurals and one from OPPD and NPPD and somebody from the Secretary of State's office sit down with Jody and it might be prudent to throw in the committee counsel from the Government Committee and work on some scenarios. From what I'm hearing is we probably don't have to deal with this this session, but so if we do have an interim study, we can kind of get an idea of what maybe could be agreed upon before we do anything. And maybe present that at an interim study.

TIM TEXEL: I'd be happy to help...

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SENATOR SCHROCK: I think...

TIM TEXEL: ...however I can and come up with those scenarios. I know it is complex and...

SENATOR SCHROCK: And...

TIM TEXEL: ...whenever you change one thing...

SENATOR SCHROCK: Yeah.

TIM TEXEL: ...there's so many statutes on, it does tend to have a ripple effect through the other statutes.

SENATOR SCHROCK: And there's something to be said if it's not broke, don't fix it, too. So maybe that's ultimately what gets done, but I think it's certainly worth looking at, and I think, rather than for us as individual senators to look at it, I think it would be good for you to prepare something for us, and it could be two or three scenarios, rather than just one. That sound fair enough to everybody? And I think it would be prudent to include the Government Committee counsel on it also. All right. No further questions for Tim? Thank you.

TIM TEXEL: Thanks.

SENATOR SCHROCK: Is there other neutral testimony? Senator Hudkins, do you wish to close on LB 638? Then we will open the hearing on LB 189, and we can stand at ease until the Senator shows up.

SENATOR KREMER: Say at ease.

SENATOR SCHROCK: Thanks, Bob.

BREAK

SENATOR SCHROCK: Okay. We're back in business and here's a familiar face. Senator Preister, how are you today?

SENATOR PREISTER: Good, Senator Schrock. It...

SENATOR SCHROCK: You are authorized to open on LB 189.

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SENATOR PREISTER: (Exhibit 2) Thank you, Senator Schrock. Chairman of the Natural Resources Committee, members of the committee, it is nice to once again be back with you. I do appreciate the opportunity. My name is Don Preister, P-r-e-i-s-t-e-r. I'm the primary introducer of LB 189, which is a 10 percent renewable portfolio standard. When the page comes, I've got some information for you, also.

SENATOR SCHROCK: Jody, he's got a handout there that you want to help him with it?

SENATOR PREISTER: It's...

JODY GITTINS: Sure.

SENATOR PREISTER: ...not essential. You can look at it at your leisure. Thank you. LB 189 is by far the most successful public policy catalyst in the country for stimulating wind and renewable energy development. Beginning January 1st, 2007, each retail electricity supplier would be required to have one percent of its total kilowatt hours sold to retail customers in Nebraska come from a renewable energy source. The percentage would increase one percent each year for ten years until 2017. The Nebraska Power Review Board is authorized to oversee and enforce this program. An eligible renewable energy source includes electricity generated from wind, solar, landfill gas, geothermal energy, fuel cells, or biomass. Hydro-power dams are not included since one of the primary purposes of a renewable portfolio standard policy is to develop the technology in markets for underdeveloped and underutilized renewable energy resources. Hydro-power dams are well established and do not need policies to encourage development or utilization. Retail electric suppliers may purchase credits from other suppliers if they do not have the required number of credits in a given year. Failure to acquire the required number of credits will result in a penalty of three times the value of the credits. Any penalty monies will go to the permanent school fund. The bill earmarks the interest from penalty funds to be used exclusively for the development of renewable energy

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generation by the school districts. The purpose of the bill is to advance renewable energy technologies by creating a stable policy that will enable long-term financing and contracts. This will result in lower costs and a more stable energy economic environment when there is less reliance on the volatile prices of natural gas and coal. The development of renewable energy not only offers the opportunity to diversify our energy portfolio with new, clean energy sources, but it also provides the opportunity to bring much needed economic development to rural areas of the state in the form of jobs and cash crops. Landowners in other states have received between \$2,000 and \$4,000 per year in lease payments for each turbine placed on their land by wind developers. One of the major issues related to traditional energy generation is the amount of water needed, which is certainly a topic of interest during these times of drought. Thermoelectric power plants account for approximately 39 percent of the water used in the United States. Most of the water is used for cooling. On average, each kilowatt hour of electricity requires about two gallons of water to produce, much of which is lost to evaporation. In addition, the water that is returned to streams and lakes is much warmer, which can be a problem for many aquatic species. Currently, Nebraska public power districts spend over \$110 million annually for coal and transportation related cost to bring the coal to their plants. Rather than exporting these dollars, Nebraska needs to be investing these dollars at home in our own communities. In addition, the environmental and health benefits from reducing our dependence on coal and natural gas will accrue to all citizens. For instance, in 1999 our utilities generated over 76,000 tons of air emissions, which are made up of nitrogen oxides, sulphur dioxides, lead, mercury, particulate matter, and other particles. That means that approximately 78 percent of Nebraska's total air emissions were generated by our own utilities. These pollutants are a major contributor to ozone smog, acid rain, and global climate change. A frequently cited, but still disturbing statistic is that Nebraska has the second highest rate of asthma-related deaths in the country. While not all of this can be attributed to the emissions from power plants, a study done by ABT Associates for the Union of Concerned Scientists in 2000 documents the health impacts of air pollution from power plants nationwide. For Nebraska, they found that 31,000 asthma attacks, 729 emergency room visits,

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and 365 hospital admissions for a total cost of \$6.5 million could be attributed to the emissions from our power plants. In addition, power plants emit more mercury than any other industrial source. Most of the airborne mercury enters lakes and streams when rain and snow wash it from the air, where it then builds up in fish. Currently, Nebraska has fish advisories on 12 bodies of water throughout the state because of mercury found in fish samples. Mercury causes developmental problems and irreversible neurological damage, particularly to children, infants, and fetuses. Mercury cannot be destroyed or eliminated and therefore, the ingestion of mercury is cumulative. The avoidance of these health and environmental factors are not given a dollar value when comparing the cost of renewables versus coal, nuclear, and natural gas fired plants, but there are costs that we pay individually in medical expenses and as taxpayers. LB 189 is good for the state's economy, it's good for the environment, for the preservation of our water, and it's good for the health of all our citizens. Thank you, Chairman Schrock and committee members. I will conclude my opening. I will just mention the renewable electricity standards map that I gave you highlights the states in dark that do have a similar renewable portfolio standard, and those, coincidentally, are also the states where we're seeing the most development of renewable, and particularly Iowa and Minnesota our neighbors. Texas has certainly been a leading state. Nebraska has a greater capacity than those other states, but we have yet to harness our capacity. This ten percent standard certainly is a very small amount in comparison to the 90 percent, and I think is certainly doable over the next years up until 2017. I would be happy to answer any questions.

SENATOR SCHROCK: Thank you, Senator Preister. Are there questions? Senator Preister, I commend you for bringing the bill.

SENATOR PREISTER: Again?

SENATOR SCHROCK: I did read, I believe it was in the Massachusetts, they had some wind turbines out on the bay area and they were having quite a little problem with bird kill. I've not studied this close, but I know that is a concern with the windmills.

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SENATOR PREISTER: In Nebraska...were you ready?

SENATOR SCHROCK: Yeah, go ahead.

SENATOR PREISTER: Didn't mean to interrupt. In Nebraska, the migratory flight through the Midwest does come through here. Largely, the migratory birds follow the water bodies, and down along the Platte River, one of the main migratory landing areas, there really aren't the same capacities of wind as there are in the western part of the state and the northern part of the state. So the areas where we tend to have greater capacity, we also have fewer birds. It is an issue. It is one that has been raised. I think we have a little less interaction between where the turbines would be sited and the migratory paths in Nebraska than in other places.

SENATOR SCHROCK: So, okay, this would be a 10 percent renewable by 2017. I assume wind would be one of the major components. Landfill gas is somewhat limited because, unless you've got a big landfill, I think the only facility we have now is in Omaha, is that correct?

SENATOR PREISTER: That's the only one to my knowledge.

SENATOR SCHROCK: Is there a potential for one in Lincoln or is there big enough? And I know that Columbus, Norfolk, and Fremont operate a landfill together. Would that landfill be big enough to do some landfill gas generation?

SENATOR PREISTER: I am not familiar with the size of those, but I do know that OPPD is discussing with the county in Douglas County about expanding the current one there because they're generating enough gas to operate a bigger generator, as I understand it. But in the other areas, I would assume Lincoln could do similar, but how large a capacity of garbage they would need to operate a generator, I think, is pretty much determined and the utilities could probably better answer that.

SENATOR SCHROCK: Then the geothermal energy, that's probably nonexistent in Nebraska, would you say or am I incorrect there?

SENATOR PREISTER: I would guess it's rather limited also.

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The main one would definitely be wind. With the prices being as low as they are now and with the technology developed as it has, it would seem that it would be the most economically, technically feasible.

SENATOR SCHROCK: And I know that some of the Arizona and New Mexico...well, Arizona specifically has a requirement that 60 percent of their renewable be solar, so I suppose we probably wouldn't have the potential for solar that the state like Arizona has, but there would be some potential there, I suppose.

SENATOR PREISTER: There is some for solar. The cost of solar is also coming down as the technology develops.

SENATOR SCHROCK: Okay. Other questions for Senator Preister? Senator Kremer.

SENATOR KREMER: On the gas from the landfill, how long can they harvest the gas? Will it continually to create gases after it's closed or is that indefinitely or what?

SENATOR PREISTER: They can continue to harvest after it's closed, but how much gas continues, I would...

SENATOR KREMER: Would it diminish as it got older or...

SENATOR PREISTER: Event, it does diminish, but how long it takes to diminish and the time element, I couldn't answer, Senator.

SENATOR KREMER: Okay. Because I was just, it's quite an investment, I'm sure, but then I was just wondering how long would, they could expect to be able to, you know, run that facility.

SENATOR PREISTER: It obviously was long enough to invest in those generators in Omaha, and as they continue to expand the landfill, then the pipes that would harvest that gas and bring it to the generator can be expanded. But the life of the landfill in terms of generating enough gas, I'm not real certain of that.

SENATOR KREMER: It's been pretty successful, hasn't it, in Omaha?

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SENATOR PREISTER: It has been. I've been out there, I've seen it, it looks like a regular diesel generator, except it doesn't burn diesel fuel; it burns the methane gas. It's a specially designed combustion chamber, as I understand it, to allow it to burn. But it's been generating and been up and on line most of the time. I don't know what the actual production rate is, but I think it's been very successful for them.

SENATOR KREMER: Thank you.

SENATOR PREISTER: And I appreciate it and appreciate the efforts between the county and OPPD.

SENATOR SCHROCK: Other questions for Senator Preister? You will be afforded the opportunity to close if you're here.

SENATOR PREISTER: If I am here. Most likely, I will not be. I have another bill to introduce and need to get back to my other committee, although I still feel like this is my committee. It's a good committee with good people on it and...

SENATOR SCHROCK: Well, it doesn't seem quite right not having you here.

SENATOR PREISTER: Thank you. That's why I keep coming back.

SENATOR SCHROCK: First proponent, please.

KENNETH C. WINSTON: (Exhibit 3) Good afternoon, Senator Schrock, let's see if I can put the right thing in the box this afternoon, and members of the Natural Resources Committee. My name is Kenneth Winston, last name spelled W-i-n-s-t-o-n, appearing here on behalf of the Nebraska Chapter of the Sierra Club. My written testimony is being handed out. I won't read that to you. I will summarize some points related to LB 189. We're supporting LB 189; we believe it's an important measure to encourage the development of renewable energy. There are 18 other states, as I note, that have a renewable energy standard and that this is a great stimulus for renewable energy. Dick Boyd, who will follow me, is going to talk about renewable energy

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on a farm in Minnesota, but a big reason why that's successful in Minnesota is because of the fact that Minnesota has a renewable energy standard. I believe, well, the committee heard from Dan Jewell last fall and a big reason why they're doing the kinds of things they're doing in Minnesota is because of the fact that the utilities are required to purchase the energy and so there's an incentive for the farmers to develop it. As I note, we're lagging behind other states in terms of making use of our potential. We have the 6th best wind in the country and yet we're at least 25th in the nation in terms of the amount of wind energy that we've developed. Wind power is becoming more...used more and more; it's becoming more cost-effective. A few years ago it was like 30 cents a kilowatt hour to generate; now we're looking at four cents a kilowatt hour, and some contracts are three cents and less. As Senator Preister noted there, a farmer with no investment can receive \$2,000 to \$4,000 for a one-quarter-acre lease for a turbine. A farmer who has ownership interest in the turbine, as Mr. Jewell pointed out last fall, ownership interest through an equity partner, who is able to make use of an energy tax credit may get many times that and he was citing figures of \$36,000 a year, which would be a significant addition of revenue for a farmer. In addition, if the energy is generated locally and the energy is sold locally, that's more money that stays in rural communities, it's more money that gets invested in rural communities, it's more money that provides a means for the stores on the main street of small towns to stay open. As noted by Senator Preister, many of the traditional forms of energy development use a lot of water and as all of the agricultural members...the members of the committee with interests in agriculture know, agriculture also needs water, and there are some areas where the power plants and the local farmers are in competition in terms of whether they can make use of the groundwater. And of course, it's no secret to anyone that in particular, the western two-thirds of the state has been in a drought for the last several years, and so we need to conserve as much water as we can. And then finally, there's the health impacts of coal-fired power plants. In particular, Senator Preister talked about the asthma impact. The other health impacts include mercury getting into streams and the impact that that can have on children and developing fetuses. In addition, there have been some studies that indicate that mercury also has a

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negative impact as increases the likelihood of heart disease among middle-aged men, and as a middle-aged man, I'm particularly interested in that. So anyway, we're encouraging the committee to advance LB 189 and would be glad to answer any questions if I'm capable of doing that.

SENATOR SCHROCK: Thank you, Ken. Questions?

SENATOR KREMER: I have one.

SENATOR SCHROCK: Senator Kremer.

SENATOR KREMER: One statement you have here is that the revenue from the wind farms stay in the community. I was wondering how that works, if the electric utility built them? I mean, I could see that they would pay rent...

KENNETH C. WINSTON: Sure.

SENATOR KREMER: ...to the landowner, but then I can't see why the necessary, the revenue would always stay in the community.

KENNETH C. WINSTON: Well, I think that Mr. Boyd, Dick Boyd's going to testify a little bit about this and you may have heard the testimony from Dan Jewell last fall. This would be envisioning a situation in which you have equity partners, where the farmer eventually owns the turbine and is paid a sum of money for operating the turbine and then the money then stays in the community...

SENATOR KREMER: Okay.

KENNETH C. WINSTON: ...through that.

SENATOR KREMER: But it would not always be the case. Some of these wind farms...

KENNETH C. WINSTON: That...

SENATOR KREMER: ...are...

KENNETH C. WINSTON: That would be correct.

SENATOR KREMER: ...are put there by the utilities and that

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wouldn't necessarily be the case then, is that correct?

KENNETH C. WINSTON: Certainly. If the utility is the sole owner and there's no payments paid to the farmer for putting the turbine on his property, then that would also not be the...

SENATOR KREMER: Well, I'm sure they'd be paying, you know, a rental fee of some kind to have the turbine on the...

KENNETH C. WINSTON: Certainly.

SENATOR KREMER: ...facility, but it would not be...it would be some, but not all of the revenue.

KENNETH C. WINSTON: Well, any revenue, I imagine, that gets to be generated in a local community is probably appreciated.

SENATOR KREMER: I was wondering how compatible center pivots are with the wind turbines.

KENNETH C. WINSTON: In what respect?

SENATOR KREMER: If you had a wind turbine, it would be pretty hard to have a center pivot irrigation system on there.

KENNETH C. WINSTON: Oh, on the same...

SENATOR KREMER: Yeah.

KENNETH C. WINSTON: Oh yeah. Yeah, it would be tough to have that...

SENATOR KREMER: It probably wouldn't work very well.

KENNETH C. WINSTON: Yeah, I think they'd probably collide with each other. I can just envision that. You'd probably have to have it pivot back around or something.

SENATOR KREMER: Or else a bridge to go over the top of it.

KENNETH C. WINSTON: Something like that. Interesting technology. One thing that I forgot to mention. Senator

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Schrock asked a question about bird kills and I've read some studies about bird kills, and the studies are over the place on the subject. I read one study that said more birds are killed by flying into trees than would ever be killed by flying into the windmills. There have been some problems initially in some of the sites in California because they were put up on ridge lines in bird migratory patterns and so there were more bird kills in those areas. But I think if you're sensitive to the areas where there are migratory patterns, it's much less likely to happen. Another thing is the way that they're spaced, the way that they're set up so that if you don't have just a forest of them then you're much less likely to have problems with it. And then the third thing is that the new technologies, you don't have the...the blades turn very slowly and there's less of an opportunity for the birds to...the birds have more opportunities to avoid flying into them. So the newer technologies, there's less of a problem with that.

SENATOR SCHROCK: But I could see some advantage to that, though, Ken. If you had it close to your house, that might determine what you had for supper every night.

KENNETH C. WINSTON: Well, I don't know what kind of birds you want to have for supper. I guess that would also depend. I mean...

SENATOR KREMER: If it would kill starlings, I'd be in favor of it too because...

SENATOR SCHROCK: Yeah, and Senator...

KENNETH C. WINSTON: Well, I think what...

SENATOR SCHROCK: ...and Senator Kremer, you put the windmills on the corner where your pheasant habitat is.

SENATOR KREMER: Okay. Then the pheasant hit the fan and...

KENNETH C. WINSTON: I think you still are probably going to have to get your shotgun out to get anything you really want to eat for dinner.

SENATOR SCHROCK: Questions for Ken? Thank you for being with us, Ken.

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KENNETH C. WINSTON: You bet. Thank you.

SENATOR SCHROCK: I was going to ask you something here.

KENNETH C. WINSTON: Yes.

SENATOR SCHROCK: What is the...you're seeing NPPD and MEAN getting involved in some wind powered farms...

KENNETH C. WINSTON: Sure.

SENATOR SCHROCK: Do you think they're not moving fast enough? Should this argument be made in front of their board of directors rather than the Legislature?

KENNETH C. WINSTON: There is some effort that's being made in that regard. I know that there are people who are talking with the executives at NPPD to encourage them to move more quickly. I think the frustration is the idea that we have so much potential. It's like looking at a child that could be getting all A's and they're, you know, they're lagging back in their class. I mean, when we have so much wind potential in this state and very little of it's been developed and then you drive to Minnesota and Iowa and you see wind farms all over the place. You think, well, why aren't we doing that? So we'd like to have something that we'd encourage more wind development.

SENATOR SCHROCK: All right. Thank you, Ken.

KENNETH C. WINSTON: Thank you.

SENATOR SCHROCK: Next proponent, please.

RICHARD BOYD: My name is Dick Boyd. I'm a retired...

SENATOR SCHROCK: Will you spell that for us, Dick?

RICHARD BOYD: B-o-y-d. Excuse me, Senator Schrock and senators, my name is Dick Boyd. I'm a retired insurance manager. I've testified before on financial assurance items, however I recently was hired by the Alaska Conservation Foundation as a grassroots organizer in the state of Nebraska. The main issue with the Alaska Coalition

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and the Conservation Foundation is drilling in the Arctic National Wildlife Refuge and indirectly, the renewable energy has a factor in the dependency on gas and oil from foreign countries. The greater the use of renewable energy will be less dependence on foreign gas and oil. I had an opportunity two weeks ago this past Thursday to go to Pipestone, Minnesota with Senator Ben Nelson's office and visited the wind farm of Dan Jewell, who had testified here last fall, as Ken Winston mentioned. I was at that hearing and was impressed with his testimony, so I took the opportunity to go to Pipestone and he...this will be a repeat to some because he related these figures, but he related again at the meeting two weeks ago, that for a \$25,000 investment, a farmer/rancher could finance a \$1.8 million to \$2 million wind turbine with the help of the federal tax credit. The federal tax credit...

SENATOR SCHROCK: Run those numbers by me again.

RICHARD BOYD: Twenty-five thousand dollars.

SENATOR SCHROCK: No. No, start from the beginning on the numbers. With a \$25,000?

RICHARD BOYD: Of the rancher/farmer's investment.

SENATOR SCHROCK: Okay.

RICHARD BOYD: And with the help of the federal tax credit, whose credit was sold by him to John Deere, so John Deere was helping in the financing of it along with the local banks, which makes it a...kind of a local economic development program. The farmer/rancher in his case was paid \$35,000 a year to maintain the turbine and tower and that's for a ten-year period of time, and at the end of that period of time, the turbine becomes the sole ownership of the farmer/rancher. He indicated that the current price of would generate him approximately a six figure income from each turbine. He has 17 wind turbines on his farm, so it is a very lucrative situation for that particular farmer. He indicated that the life expectancy of the turbine is 20 years, but he is of the opinion that he can get 25 years out of the turbines that he has installed. He is presently selling the power to Florida Power Company and the reason that Senator Ben Nelson's group went up there was from the

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economic standpoint, in an effort to keep the rural community farmers and ranchers where they're at rather than to move on to a larger community. It's very obvious from looking at the number of wind turbines around Pipestone and Woodstock, Minnesota that it's certainly helping that rural area of Minnesota. After going on that trip, contacted an individual in Des Moines, who happens to be a lobbyist for several different companies and he indicated that the wind turbines are going up quite rapidly in Iowa, particularly from Mason City, Clear Lake over to Sioux City. I talked to a lawyer from Omaha, individual by the name of Joe Meusey, and he indicated that his hometown of Storm Lake has mushroomed with wind turbines. And it seems that in talking with a fellow from Clear Lake, South Dakota, that the same thing is happening in South Dakota at the present time. And he was in the business of...the company that he works for, or is part partner is in the business of maintaining the towers and the turbines. Again, the federal tax credit seems to be the key as far as the financing of it, except for the \$25,000 that I mentioned earlier. The federal tax credit will expire in December of this year, which should be a real concern of any farmer or rancher that's considering getting into wind energy, also considering that President George W. Bush has recently made a number of cuts, reductions as far as his budget that came out on February 7. But with that thought in mind, I contacted Ben Nelson's office this morning, and according to W. Don Nelson that it's expiring in December of this year, but he said that he is of the opinion that it will probably be renewed on a temporary basis and will not probably be permanent, but it happened somewhat similar to low and moderate housing tax credits has in the past. He said that Senator Ben Nelson supports the continued federal tax credit for renewable energy, realize this is just one small aspect of LB 189. You asked some questions of Ken Winston and I made a few notes as he was talking. The bird kill came up both at this meeting and at another meeting that I attended, and Dan Jewell said that of the turbines that he has on his farm, there has never been a bird kill on any of the 17 turbines that he has. He said that a neighbor had two bats that were killed, but he said they weren't local bats, and I don't know how they figure out a local and a nonlocal bat...(Laughter)

SENATOR KREMER: Probably animal ID.

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RICHARD BOYD: But at any rate, there were two representatives from Valmont on this trip that I mentioned earlier, and one of those individuals sent a DVD on bird kills, which is very favorable for not killing birds. I think there's been something in the newspaper that...it was either Virginia or West Virginia, there were a number of bats killed by some wind turbines, but it's my understanding in talking to some biologists at UNO that most of the bird kill is during storms where the birds become disoriented and collide with the blade of the turbine, which blades actually turn very slowly. They turn at about 34 rotations a minute, but the tip of the blade is traveling about 177 miles an hour. In fact, there was some literature that I found on the internet that cats kill 1,000 times more birds than wind turbines, so nobody wants to go out and kill cats anyway. With that, I'd be happy to address any questions that may be...

SENATOR SCHROCK: Thank you, Dick. That brings up to mind my favorite joke about cats this session.

RICHARD BOYD: I knew you were going to do that. No, I don't...what is your favorite joke?

SENATOR SMITH: Tell it.

SENATOR STUHR: Tell it now.

SENATOR KREMER: No. If it's heads, you better not tell it.

SENATOR SCHROCK: Counsel says no.

RICHARD BOYD: Oh, okay. Oh, well, we'll talk afterwards then.

SENATOR KREMER: (Inaudible) counsel.

RICHARD BOYD: I know, if there's no question, I really appreciate the opportunity to talk to you. Thank you.

SENATOR SCHROCK: (Exhibit 4) Any questions for Mr. Boyd? Thank you for that insightful report. Next proponent, please? Opponent testimony? I have proponent testimony here from the Izaak Walton League of America and it's signed

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by Wes Sheets.

CHRIS DIBBERN: (Exhibit 5) Good afternoon, Chairman Schrock and members of the committee. My name is Chris Dibbern and that's spelled D-i-b-b-e-r-n. I'm governmental affairs counsel for NMPP Energy and I am appearing on behalf of the Nebraska Power Association. Many of our members are in Washington, D.C. today to work with the American Public Power Association on federal energy issues, so I want to apologize to you that our room is not typically this empty. It is true that several states have employed a renewable portfolio standard, an RPS, and it's a mechanism to promote new, renewable energy, and to help create a market for renewable energy. And I'm very familiar with the new Colorado standard, but however, the renewable portfolio standard as a policy has not been universally successful in achieving their goals. Various approaches for applying the RPS target have been used with mixed results. This short testimony will discuss the four key issues related to the design of a successful RPS and why LB 189 falls short of a successful program. The four key elements are a successful program has to be a collaborative process, including members from all of the sectors of the industry. LB 189 does not do that. A successful program considers the unique needs of a state and we'll go on to explain that in a minute. Thirdly, a successful program has a diverse resource mix of eligible technologies and that's a problem with LB 189. And lastly, a successful program understands the resource potential and its cost. And a good newspaper reporter would tell you never bury your lead, so here's my lead: to comply with the RPS standard in LB 189, public power would have to do eight Kimball projects a year to make the standard or to comply with LB 189, public power would have to do 12 Ainsworth projects. Let me go on to tell you what that means. New renewable project developments have been made in the state and likely, they've been made because local control, because this committee has been interested in renewable projects, and because Senator Preister has been interested. The state's largest wind farm, the handout I've given you, is Kimball, Nebraska. It's 10.5 megawatts; it was built for \$14 million by MEAN and member municipalities. In that handout, we would have to build eight of those projects every year for the next ten years to comply with LB 189. The Power Review Board has approved a 60 to 75 megawatt wind farm in Brown County in Ainsworth, and that project is going

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forward. It'll cost between \$68 to \$85 million plus \$3.5 million for plant substations and upgrades. So to comply with LB 189, we would have to do 12 Ainsworth projects. At a minimum using 2003 numbers, that's the most current numbers we have of all of the electricity produced in Nebraska. It would cost, at a minimum, \$816 million to do an RPS standard in Nebraska. What else have we done in the state? You talked a little bit about OPPD and LES have biomass and methane projects in Omaha, the Douglas County landfill, and Lincoln using wastewater. Those two projects are very exciting and using methane, I thought your questions were very good, using that methane project is a real win-win for the landfill and for the electric produced out of those. We've also had some small fuel cells being used in the Omaha Zoo and in financial institutions, so our knowledge of fuel cells is growing. Fuel cells is mentioned in LB 189. We've also had voluntary green pricing programs. They've existed in LES. They've supported the two wind turbines that you see outside of Lincoln and we've had a voluntary wind program in NPPD's, in their Springview systems. So we've had some movement in renewable projects. We've also been told that successful programs need to consider the unique needs of a state. A threshold question of LB 189 is whether the target can be reached in Nebraska, and do we need that type of power. Renewable energy has a use, but it's rarely a base load use like coal. For example, in the past few years, many utilities needed base load power. They didn't need this intermittent power or they didn't need a peaking power. So setting the target is very important. Thirdly, a successful program has a diverse resource mix of eligible technologies. Policymakers may want to encourage a diverse resource mix. Resources listed in LB 189 are not diverse. It is a very limited list of eligible, renewable energy sources. You've been told wind, solar, which is very expensive, landfill gas, which we are doing a little bit of, geothermal fuel cells, which we are doing a very little bit of, or biomass. However, when you go to look at the definition of biomass in the bill, biomass has a very limited definition because it excludes solid waste, such as municipal solid waste. And I was disappointed in that. I sit on the Biomass Task Force and the most potential we have is coming from municipal solid waste, so that's one piece that we can't use under this bill. And lastly, successful programs understand their resource potential and their costs. There are very

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practical issues, such as the cost to the rate payer and renewable potential in a region that will greatly influence how an RPS is designed. Often public money is used in other states to shield rate payers from the full cost of implementing an RPS, but this adds another layer of political and administrative overhead. Nebraska's costs would increase dramatically with a growing RPS, and as I told you, to comply with the RPS standard, public power would have to do eight of those Kimball projects a year or 12 Ainsworth projects. In summary, why is it seemingly so hard to get the details right on an RPS? Despite the lessons learned, designing an RPS is not one size fits all. In every state there are unique circumstances, political, physical, and historical, that have to be accommodated. You asked some good questions. If an investor-owned utility is told to put in an RPS standard, they're happy to do it because you earn 12 percent rate of return on all of your investments. So if you tell a state like Texas, you must build 2,000 turbines, I'll just tell you, where do you want me to put them because I'll earn 12 percent on every turbine I put in. Nebraska's facilities are not that way. We design for what we need, we don't design for what we can earn on those investments. Mr. Doyle (sic), who testified, testified on a merchant power aspect. If you build it and the state has to buy it from you, they will look to those merchant power plants. Nebraska isn't set up in that environment either. We don't have merchant power, so that's our testimony. Do you have any questions?

SENATOR SCHROCK: Thank you, Chris. Senator Hudkins.

SENATOR HUDKINS: Chris, the wind farm in Kimball, how many households does that supply power for?

CHRIS DIBBERN: Let's see if I can get this right. It's 10.5 megawatts. It costs \$14 million; it supplies...it feeds into the city of Kimball, so it would supply maybe 1,000 households.

SENATOR HUDKINS: The entire city of Kimball?

CHRIS DIBBERN: Yeah. It could do the entire city of Kimball, but we don't market it that way. It feeds into Kimball, but all of our towns have bought a piece of those wind farms, so. We are interested in the renewable

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portfolio standard that passed in Colorado and I think we'll learn a lot from that Colorado example and see what's happening there. But in Colorado, a vote of the people, and it was a real close vote, 53 to 47 percent, and in that vote on the ballot issue, it told customers, it will raise your costs. So I thought that at least was an admission; it will raise your cost.

SENATOR SCHROCK: Senator Hudkins, it says here in this article on page 5 that 10.5 megawatts or enough energy to power about 4,000 homes.

CHRIS DIBBERN: Four thousand homes, excuse me. Thank you.

SENATOR SCHROCK: I don't mean to be correcting you...

CHRIS DIBBERN: No, I'm...

SENATOR SCHROCK: ...if you don't like to be corrected. Other questions? Chris, would your power industry be agreeable to a smaller number?

CHRIS DIBBERN: I think it goes against the local control that our boards set up. They listen to these presentations; they'll listen to consumers interested in power, they'll study the power, but I think leave it in the hands of the local decision makers. They will do what's good for the customers and I think they'll do what's good for the environment. We're very excited about the Ainsworth project. That's a big farm. That's going to tell us a lot about wind power.

SENATOR SCHROCK: Are those windmills going up now at Ainsworth?

CHRIS DIBBERN: Yes.

SENATOR SCHROCK: When will they be operational?

CHRIS DIBBERN: In, well, I think within a year. Two years, I'm hearing in the back of the room.

SENATOR SCHROCK: What is the renewable portfolio for the state of Nebraska now? How much would it be?

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CHRIS DIBBERN: Under this bill? Right now, there isn't a standard.

SENATOR SCHROCK: No. What percent of the electricity in Nebraska is generated with this type of energy right now?

CHRIS DIBBERN: I only know our MEAN system. Our MEAN system, if you count only the wind, we were two percent. But if you count hydro, we're much higher, and hydro is a clean, renewable resource, but not listed in this bill as one of the renewable. So if you count hydro, I would almost think we're about 30 percent.

SENATOR SCHROCK: Well, I'd guess you're wrong, but I'm guessing. Senator Smith.

SENATOR SMITH: Now you said, municipal solid waste cannot be used to fulfill the requirements?

CHRIS DIBBERN: Right. It says under biomass, municipal solid waste is excluded.

SENATOR SMITH: And water, hydro, is excluded?

CHRIS DIBBERN: Right. Hydro is not listed as an eligible, which is not listed as eligible.

SENATOR SMITH: So when it says renewable portfolio standard, it's just some renewable. I mean, that's...

CHRIS DIBBERN: That's right.

SENATOR SMITH: Okay. What happens...believe it or not, sometimes wind doesn't blow in Nebraska and it's generally when I'm on a sailboat in the middle of Lake McConaughy, and that happens and obviously, 4,000 homes, and I would assume that hydro or coal fired, you know, kicks in, does that sometimes skew the benefits of wind power?

CHRIS DIBBERN: It's very hard to dispatch. Just exactly what you're talking about. How do you plan for it? So you don't plan for it as your base load, you plan for it as coming on and they schedule it every hour. They're watching the wind every hour. Senator Schrock, I have to go back to your question. When I answered 30 percent, again, that is

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for our MEAN systems. I know that we do get...we get an awful lot of hydro, we get WAPA power for our towns, but that is for our MEAN systems.

SENATOR SCHROCK: But in state, I'll bet it wouldn't be that...

CHRIS DIBBERN: No, I...

SENATOR SCHROCK: ... for the generation.

CHRIS DIBBERN: ...I would have to...we'd have to get that number to you.

SENATOR SCHROCK: Oh, okay.

SENATOR SMITH: So the landfill gas that's included would not be...

CHRIS DIBBERN: The landfill gas is considered the methane that comes out...

SENATOR SMITH: Right.

CHRIS DIBBERN: ...of the landfill, but not the biomass. The biomass is not allowed, allowing the municipal solid waste, so it's just the gas. When we toured the Douglas County landfill, they also told us these landfills have to be piped to get the methane out. You can't use an existing landfill; you can't go to an old landfill.

SENATOR SMITH: Okay. So the biomass that is included would be what? If you can't use a landfill...

CHRIS DIBBERN: Crops, growing crops. There is some research on switchgrass, there's research on wood crops. There's wood pallets. Those are the kinds of biomass that they're considering.

SENATOR SMITH: But as long as they don't come out of the landfill.

CHRIS DIBBERN: Right. And I don't know what black liquor is. It created some jokes in our office, but in there it lists a couple of other ones that.

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SENATOR SMITH: So the, let's just say, there's a company that consumes or has a surplus of pallets. Those could be used as long as they didn't make it to the landfill first.

CHRIS DIBBERN: That's right. I would think that that could be true.

SENATOR SMITH: Okay. Thank you.

SENATOR SCHROCK: Senator McDonald.

SENATOR McDONALD: And maybe you're not the one that I need to ask this question to. And this is from the Nebraska Sierra Club. It says, coal fired power plants emit more mercury than any other industrial source. Mercury is harmful to children and developing fetuses and has been connected to the greater risk of heart disease in middle-aged men. I guess I always thought that this was mercury that was ingested, taken into the body rather than breathed. Can you tell me, do you know anything about the mercury issue?

CHRIS DIBBERN: I can't tell you anything more on that.

SENATOR SCHROCK: I was going to ask Ken Winston what he thought middle-age was too. Go ahead, Senator Hudkins.

SENATOR HUDKINS: The pallets, are these no longer usable pallets? What do they do with the nails?

CHRIS DIBBERN: The Lied Center in Nebraska City uses pallets and they grind them up. I don't know what happens to the nail in the pallet, but those are delivered to Nebraska City and that Lied Center is powered by ground up wooden, wood trees and pallets and wood products, so I do know that, but.

SENATOR SCHROCK: Other questions? Thank you, Chris. Next opponent? Neutral testimony? If not, that will complete the hearing on LB 189. And being as our next presenter isn't here yet, I'm going to take a break, but I won't be gone long. And Senator Hudkins, if you're going to be here and he shows up, you have my permission to start the hearing.

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BREAK

SENATOR HUDKINS: I think we're ready for you to start if you'd like. If we can reconvene, whenever you're ready, we're ready for the hearing on LB 23.

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SENATOR ERDMAN: Thank you very much. It's an honor to be here. Philip Erdman, representing the 47th Legislative District. I've got a copy of the bill, but as simple as it is, we'll just shoot from the hip. The bill does three things. The bill reduces the term of the Game and Parks Commissioner from five years to four, it allows an individual who is serving as a member of the commission to be reappointed to one additional term consecutively, and it applies a lifetime term limit on members who have served or who will serve on the Game and Parks Commission of two terms. So it does three things. Currently, state law allows an individual to serve as many times as they can convince whoever sits in the corner office, or the governor, to appoint them. And they serve five-year terms, they wait five years, they're eligible for reappointment. There is new language that was added to the law a few years ago on the floor of the Legislature through a floor amendment that restricts the ability for individuals from certain counties to be appointed if there is an individual from that county currently serving, but realistically, you can serve a number of times if you have the political connections or the fortune to be reappointed. You might ask why we keep bringing the bill. First answer is the bill has never been passed, so obviously, there is still a concern. The second question is this, there are those who say that the Game and Parks Commission is reserved for those of high power or great political influence and there may be some truth to that. My goal is to get away from that. My goal is to ensure that the people that we appoint are effective, that they are qualified, just as every other individual who would be appointed to any other commission would be qualified. But in the effort of seeing that they are effective, that they are able to accomplish good things and great things, not only for the state of Nebraska, but for our natural resources and for those who either own them, because we do

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have a number of individuals in the state of Nebraska, the majority of Nebraska is privately owned, or also those who would take advantage of them in other ways through public resources. So that's my goal plain and simple. It maintains other language that is currently in the bill that was passed by that floor amendment in that session, so the additional language or the new language that is before you is to reduce the number of terms, or reduce the number of years from five years to four. It would allow a member to be reappointed, but it would also impose a two-term, term limit lifetime on any member who would serve on the commission. That's what it does and I would be happy to answer any questions. I know there are individuals willing to testify, I would imagine, both in support and in opposition, and I do plan to stick around to close. We plan to be in the Health Committee until about midnight, so we will try to be here as you see fit.

SENATOR HUDKINS: Senator Schrock.

SENATOR SCHROCK: Thank you, Senator Hudkins. Senator McDonald.

SENATOR McDONALD: Oh. Is institutional knowledge important?

SENATOR ERDMAN: Senator McDonald, I believe in the Game and Parks Commission it's more important than in the Legislature and here's why. In entities that are noncode agencies in which the sole responsibility for the administration and oversight of that is within a group of people that is not directly accountable to us, I believe it is more important. Currently, we see and we are preparing for in this body, the impact of the loss of institutional knowledge and the transfer of that power, if you will, from elected officials to nonelected officials, and I don't mean appointees, I mean bureaucrats: people who are employed by the agency. I would argue that we see some of that in front of the agencies that come before committees that I serve on. My concern is is that we don't have the appropriate check and balance to ensure the opportunity to challenge those in those positions to ensure that they're doing what's in the best interest of the state and also following the policy outlined by those responsible to oversee it. So, yeah, I think it's a huge deal, and I think when you look at what

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the Legislature is facing, we're allowed two terms back-to-back, four years. Obviously, there are some similarities between that and what's in the bill, but I think that in these areas where we have noncode agencies, the simple possibility that a member could be reappointed challenges attitudes, I guess, towards that individual or towards different policies they may promote because there's no guarantee that person is going to be gone after a certain number of years and you can wait them out or you can just wait for a new individual to be appointed.

SENATOR SCHROCK: Senator Smith.

SENATOR SMITH: How long have we done it this way? Do you know?

SENATOR ERDMAN: Probably since Lewis and Clark came through. I honestly don't know. Maybe the committee clerk or Senator Schrock would know that better than I, but it's been an ongoing process.

SENATOR SMITH: Thank you.

SENATOR ERDMAN: I should have said, I guess, when they found the Oregon Trail and Chimney Rock, probably, but.

SENATOR SCHROCK: Other questions? Senator Erdman, I guess I'll have a little dialogue with you. What would you think of one six-year term?

SENATOR ERDMAN: That is a unique option, I guess. And I'll comment on why I've chosen this approach. Four years is probably the situation where most elected officials or appointed officials find themselves in as far as the ability to learn what's going on. Whether we extended it an extra year to improve the ability for individuals to be effective or not is probably well within the discussion. The idea that I've put forth of two four-year terms, I believe, is more appropriate for a couple of reasons. One, it still allows, as long as we're going to appoint members, it would still allow the governor to appoint every member of the commission during their term because you would have individuals come up for appointment within the four-year period, and as the bill is phased in, obviously, with the individuals who are currently serving over a five-year, it

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would take, obviously, this next round of appointments to accomplish that, but you do not deprive the governor of the opportunity that they have now. Granted, not all members of a Game and Parks Commission will be appointed by any one-term governor because of the five-year term. Under this proposal, they would have that opportunity. So we're trying to preserve what we believe was intended, and that was the executive branch having an indirect authority based on who they appoint to the commission. If you go to a six-year term, you could deprive governors of appointing members to that commission and there are other ways, I guess, to deprive the governor of appointing members to the commission that have been discussed with me and this is the route that we have chosen.

SENATOR SCHROCK: Senator Erdman, I was going to introduce a bill and I didn't get it done in the...that would have created a screening committee to screen candidates for the governor and then, I believe, that then that committee would have advanced three names to the governor for consideration, and I didn't do that. But if this would become reality, would you be agreeable to an amendment like that?

SENATOR ERDMAN: Senator Schrock, if the...

SENATOR SCHROCK: And the committee would have been made up of people appointed by the governor, again, but you'd have had a representative from the hunting community, one from the fishing community...

JODY GITTINS: Recreation.

SENATOR SCHROCK: You'd have had a recreation involved, and you'd have had other considerations.

SENATOR ERDMAN: Senator Schrock...

SENATOR SCHROCK: Then we (inaudible)...

SENATOR ERDMAN: ...if the committee would choose to advance LB 23, as close to what's in the green copy, whatever other provisions you felt were appropriate and the committee could work together to come up with a way to ensure quality representation, that would be fine. The thing that I think we need to be cognizant of and avoid, is placing undue

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limits on who could apply anymore than what we probably already have, and the example that I would give is the responsibility that you and I have are great. The responsibility that you and I have been entrusted in as members of the Legislature to set public policy for this state is one that all of us take very seriously. However, the requirement that we have in order to be members of the Legislature is simply that we have to be a resident of the state of Nebraska, who's a registered voter in the district in which we choose to represent for at least one year prior to the general election in which we serve. So that's what the citizens of the state believe is important to put in statute or in the Constitution to ensure who gets to serve them on the highest position of elected office for policy. But as far as being able to screen the members, you know, maybe we should have a screening process to put forth to the voters who could be qualified in other areas, but I would be willing to work with you on that.

SENATOR SCHROCK: When you consider that it apparently is the most sought after appointment in the state of Nebraska, I've never figured out quite why, but, and the governor seems to offer those positions up as plums for people who have supported him or her.

SENATOR ERDMAN: And I, in my earlier comments, Senator Schrock, prior to your arrival, I tried to address that. We need people who want to serve on the commission because they believe that they have something to offer the members of this state, the residents of this state, as well as setting the policy for the commission that enhances our natural resources for everybody involved. There may be individuals who are politically connected who can accomplish that, and I know there are people who aren't politically connected that can accomplish that as well. It would be my goal by the passage of a proposal such as LB 23 to remove the reward system for political investment, and rather, reward those and allow those individuals who are appointed to have the most opportunity to impact the state in the positive area for our natural resources of Game and Parks.

SENATOR SCHROCK: Other questions for Senator Erdman? Senator Kopplin.

SENATOR KOPPLIN: I'm not even sure why this was in the law,

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but its original law was not more than four members of the commission shall be affiliated with the same political party, and you're taking that out. Wouldn't that add to the plum position instead of detract from it?

SENATOR ERDMAN: If you...which, where are you pointing at, Senator Kopplin?

SENATOR KOPPLIN: Page 2, line 14.

SENATOR ERDMAN: Okay. What is...the language is still there and not more than four members of the commission may be affiliated with the same political party is current language is designed to balance. You may have a Republican governor and if you appointed eight Republicans, nine to the commission, you know, that would probably not be fair. That's part of that. The new language I believe is written that way in order to adjust for if that individual is reappointed, but we can make sure that's the case. It's not our intent to take that language out.

SENATOR KOPPLIN: Well, I just read it as it disappears after January 1st, 2006, and I'm not a proponent, I'm just asking.

SENATOR ERDMAN: Um-hum. And that may be an oversight on my opening. I'll double check and make sure that's the case, but I appreciate you pointing that out.

SENATOR SCHROCK: Other questions? Senator Kopplin, I will just tell you that what typically happens is that someone wants to serve and you've got a Republican governor or a Democratic governor, by the time they get four people on that political party on that, the next person he wants to appoint if they're of the same party and there's not room for them, they typically go down to the courthouse and register as an Independent and all of a sudden they qualify. So...

SENATOR KOPPLIN: I suppose. I just didn't know why it was in there to begin with and...

SENATOR SCHROCK: ...they've been getting around this. They've been getting around that.

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SENATOR KOPPLIN: ...and why would it be changed.

SENATOR SCHROCK: And I don't...it's not, probably, my favorite provision that we have now for appointments to the Game and Parks, but that's how they get around it now. So it's not uncommon to see four people from one political party and four people being Independents if you have a governor who's appointed all the Game and Parks directors. Although the last two appointments that Governor Johanns made were Democrats. I don't know if he thought that would help him get confirmed to the Secretary of Agriculture or not, but that's what happened.

SENATOR KOPPLIN: I just never ran into a liberal or a conservative fish before (inaudible).

SENATOR SCHROCK: Yeah.

SENATOR ERDMAN: Some swim one way and some swim...

SENATOR SCHROCK: Oh, I...

SENATOR ERDMAN: ...the other.

SENATOR SCHROCK: Aw, we've got some conservative fish in our area of the state because they don't like to bite. Other questions? All right. Thank you, Senator Erdman. You will be afforded the opportunity to close. First proponent, please?

JEFF METZ: Senator Schrock and members of the committee, my name is Jeff Metz, M-e-t-z. I'm a cow/calf producer from Angora, Nebraska. I currently serve as the president of the Morrill County Farm Bureau and I also serve on the Nebraska Farm Bureau Federation's Western Advisory Commission. And I'm here testifying on behalf of the Farm Bureau in support of LB 23, and here's a few reasons why we support the bill. Over the last several years, people in my district have been fortunate to be represented by someone on the commission who understood wildlife and conservation needs, but also understood the concerns of rural landowners in our area. When the vast majority of the land in the state is in private hands, that's an important perspective in understanding to bring to the commission that relies heavily on private land for wildlife habitat. Last year, this

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commissioner had to be replaced due to the current commissioner term limits. And while I'm happy with the replacement the governor appointed, it seems to me that there would have been merit in allowing the previous commissioner to at least have the opportunity to serve another term. This person had acquired expertise, experience, and a good understanding of issues relevant to our district. Currently, we allow individuals to serve unlimited terms, but just not back to back. Basically, we have set up a system whereby a person gets a good grasp of the issues and experience and then they are asked to leave, much like what we are afraid will happen when the term limits for the state senators take effect. We believe there should be opportunities for multiple people to serve on the commission and we support capping lifetime service to two terms as proposed in this bill. It only makes sense if we're going to allow people to serve people to serve more than one term, that we allow them to do so consecutively so that they can use the experience, in an effective and efficient manner. Thank you.

SENATOR SCHROCK: Thank you, Jeff. Questions? Senator Louden.

SENATOR LOUDEN: I don't know if I have a question or not, but I have a statement to thank you for coming clear from Angora down here to testify, Jeff. You know how far that is, on the drive, that's for sure, and appreciate you coming down here and testifying for this committee.

JEFF METZ: Thank you.

SENATOR SCHROCK: Jeff, I do have some observations and you can respond. Currently, one of the commissioners that just went off completed his second term on the commission and I believe the commissioner from Omaha is in his second term now, so we currently have two people who have served two terms. I certainly talked to the one, knew him quite well, because he's from my legislative district and he didn't have a lot of thoughts one way or the other, but he was okay with what we do now. So there are people that serve twice. And then if we go to two terms, you have the dilemma that the new governor is going to be asked and put...pressure is going to be put on them to appoint someone that the former governor appointed when he may have his own person in mind.

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And so that becomes a dilemma, and especially if they may be of a different political party. And so, when it is considered to be such a plum, and I've never quite figured that out. It does make you wonder if a little change now and...change isn't in order, but. Well, what's your thoughts on that?

JEFF METZ: Well, I think what you just stated was very true. In our case, we're in the 7th District of the Game and Parks. We lost the other commissioner that termed out...

SENATOR SCHROCK: Yeah, you can name them.

JEFF METZ: Connie Lapaseotes...

SENATOR SCHROCK: Sure, um-hum.

JEFF METZ: ...was a very good commissioner for our district. He did a lot of good things for us and reappointed in his spot was George Hall, which is also, we feel, is a good commissioner and he's done some good things for our district. And talking with him, just recently, as of yesterday, I'd give him a call to talk to him about it, and he says, he is 100 percent behind this bill because it takes two years, in his estimation, it takes two years to get acclimated to what's going on and how the system works and then when you're...get everything under your belt, then you only have two years left to serve. So he felt it was a good idea to extend the...a second term.

SENATOR SCHROCK: What would you think about a one-time, six-year term?

JEFF METZ: I think, hypothetically, wouldn't that leave some appointments out for the governor that was...I mean, wouldn't...

SENATOR SCHROCK: Well, the five-year does now if the governor only serves one term, or we could have a governor now just serving two years.

JEFF METZ: True. Our current policy is, at Farm Bureau, is that we supported this two four-year term.

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SENATOR SCHROCK: All right. Well, I thank you. I respect your organization and your policy. Other questions? Next proponent, please?

MICHAEL KELSEY: Good afternoon, Chairman Schrock and members of the Natural Resources Committee. My name is Michael Kelsey, that is K-e-l-s-e-y. I'm the executive vice president of the Nebraska Cattlemen. I'm here today on behalf of the Nebraska Cattlemen to testify in support of LB 23. I want to thank Senator Erdman for bringing this bill and the patience he's had to do that to at least two consecutive years. We'd like to see two consecutive terms as well. As you've been informed, LB 23 changes the terms of the Game and Park Commission Commissioners from five years to a four-year term. This allows the commissioners to serve consecutive terms and places a two-term limit. Nebraska Cattlemen policy supports extending the terms of commissioners. It's interesting your question, Senator Schrock. I would tell you that we would support six years, although we would prefer two terms, two four-year terms. LB 23 extends the terms of commissioners from five years to eight years, provided a commissioner is appointed for consecutive terms. NC or Nebraska Cattlemen believes that by extending the term of service to commissioners, continuity is promoted and institutional knowledge is preserved in this case. And we can speak from example and experience on how it would have been in our favor, if you will, in working with some policy, to have an extension of terms in the past. We also believe that interrupting, by having a five-year term rather than an eight-year term, this interrupts the momentum that a commissioner may develop by forcing that person to separate themselves from public service for at least five years before rejoining the commission. Finally, the four-year terms also, in our opinion, as opposed to the five-year terms, allows for more consistency in turnover in the commission as expressed by several other testifiers in terms of the governor having the opportunity to appoint at least one member to the...one of the...or excuse me, at least all of the commission members. So that a lot of my testimony was covered, to be honest with you, by our friends at the Farm Bureau, so I'll not labor anymore, Senator Kremer. On behalf of the Nebraska Cattlemen, I urge you to pass LB 23 onto general file and I'll be glad to answer any questions.

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SENATOR SCHROCK: Thank you, Mr. Kelsey...

MICHAEL KELSEY: Um-hum.

SENATOR SCHROCK: ...and welcome to the committee.

MICHAEL KELSEY: Thank you, sir.

SENATOR SCHROCK: Are there questions? Senator Louden.

SENATOR LOUDEN: Yeah Michael, have you had any discussion in your organization about having the commissioners elected at elections, such as our board of regents or something like that since Game and Parks is, oh, way more than half cash funded, why there isn't that much general funds goes into the control of it? Do you think those should be elected officials or has there been any discussion of having those elected officials?

MICHAEL KELSEY: Senator Louden, I think that's a great question. I can honestly tell you we have not had that discussion, but I would tell you also that that would be a very lively discussion within our organization.

SENATOR LOUDEN: Okay. Thank you.

SENATOR SCHROCK: Other questions? You're aware that two of the people have to live on farms, and a third has to be engaged in farming?

MICHAEL KELSEY: Yes, sir.

SENATOR SCHROCK: I'm not quite sure...that might have been oversight on our part. I don't really care whether they live on or are engaged, but either way...is that the right number out of eight, or is that about...do you think that's fair enough?

MICHAEL KELSEY: Well, we would...I would be remiss if I didn't mention that we'd prefer that all eight be ranchers (Laughter) engaged in the cattle industry, but so, of course, as many as we can engaged in our industry, we would obviously be in support of that.

SENATOR SCHROCK: Okay. Senator Hudkins.

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SENATOR HUDKINS: Farmers raise cows too.

MICHAEL KELSEY: Yes, ma'am, they do.

SENATOR SCHROCK: I've never considered farming being as glamorous as being a rancher, so I'm a farmer with some cows and we got a rancher over there on the end and I think...

MICHAEL KELSEY: There you go.

SENATOR SCHROCK: I think there's...and I think you can make that distinction too.

MICHAEL KELSEY: I must admit, though, Senator Schrock, I was a bit disappointed when you were talking about a bird flying into a blade a minute ago and that being your supper. I would hope that you wouldn't be eating any birds and that you'd only be eating beef. (Laughter) So...

SENATOR SCHROCK: I eat plenty of both, so. Other questions for Mr. Kelsey? All right. Is there...

MICHAEL KELSEY: Thank you.

SENATOR SCHROCK: Is there other proponents? Is there opponents?

JODY GITTINS: Izaak Walton League. You have to read it.

SENATOR SCHROCK: (Exhibit 6) Okay. I have a letter from the Izaak Walton League, opposed, and it's signed by Wes Sheets.

JOE HERROD: Senator Schrock and members of the committee, my name is Joe Herrod, H-e-r-r-o-d. I'm here representing the Nebraska Council of Sportmen's Clubs and I had intended my testimony to take about one minute, just to simply say that we were opposed and go through some things. But some things have come up in this other testimony now that I feel need to be addressed. One is that the Cattlemen and the Farm Bureau, the Sportsmen have sided with them very strongly in Game Commission issues to keep representation out in the state and keep it from being a one-man, one-vote situation, and this goes back 20 or 30 years. And we have

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long recognized the importance of the landowner in this state. So we're not here in opposition to any position that the Farm Bureau has taken or that the Cattlemen have taken. We worked long and hard to keep representation out there in districts like Senator Erdman, where we know all of the resources are. Now also, I'd like to go into it because the statement that said that these terms are unlimited. I can tell you exactly what's happened in three cases where commissioners have been reappointed and it goes back quite a while. The first commissioner ever reappointed was Charlie Wright. Charlie did a fantastic job as a commissioner and he had served his term. There had been an agreement made to appoint the commissioner that came five years after Charlie served by Bob Kerrey when he was governor, and so this person got a lot of support. But all of a sudden, after the appointment got right down to the final line, there was a reason this person couldn't be appointed and Governor Kay Orr came to the sportsmen and asked us, she said, I've got to make an appointment, I haven't looked at anybody else; what can I do? And we said, Charlie Wright did a great job, we'd love to have him back, and he...I remember Senator...or Governor Orr saying, but he's a Democrat, and we said, he's a good commissioner, and it's supposed to be a nonpartisan body, and so she put Charlie Wright back on the commission. Now the next time that it came up, it was Randy Stinnette and Randy...Governor Johanns went a long time trying to find somebody to appoint. And if I'm stepping on somebody's toes, I'll tell you, he looked at somebody that he could do a favor for. And one of the people he proposed had never even bought a hunting or fishing license, and it got down to the wire again, and the sportsmen went and said, Randy Stinnette has done a fantastic job, he's a farmer that lives on the ground, we'd love to have him back. That's only the second time he was reappointed. The third time was Bill Grewcock and the sportsmen did have some issues with Bill Grewcock over pheasant stocking and barbed fish hooks, but he'd done some good things and we figured he'd learned a lesson and so when they came and asked us would the sportsmen oppose Bill Grewcock going again, we said no, and we didn't, and he was reappointed. So this has never been a situation where it's an unlimited number of terms. There's been three very unique situations where somebody served five years, stayed interested in the commission, and then came back for five years. And in fact, a guy like Tom Plummer, after he'd been off five years, was a great commissioner,

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and it would be nice to see him come back. But by doing this and making it an automatic...this would almost make it an automatic reappointment for eight years. And also in the language of the bill, which Senator Erdman, I don't think realized was in the bill, was it takes out the partisan...trying to make this nonpartisan. And we know that it's been circumvented; there's no doubt that it's been circumvented, but at least we're saying by leaving that language in, we're trying to make this nonpartisan. You guys do what you want to. I know my commissioner, Jim Stuart, and those of you, probably everybody in this room knows who Jim Stuart is and knows he's not, politically, an Independent, but he is on the Game Commission. Some other areas that go into...so that's the nonpartisan thing and we worked...in this committee, I was asking Senator Schrock earlier how long he'd been the chairman and who had been the chairman before. And I know I've been down here, I think, for close to 20 years trying to keep game commissioners out where the resources are, out in Senator Erdman's territory. And we have fought long and hard. And when this thing finally came down and it finally got negotiated and settled, we said all right, we'll take Lincoln as a district, we'll put a commissioner in Lincoln because that's where he'd always come from, if you give us one more in southeast Nebraska. And thank God, we got Dr. Mark Pinkerton, who's a phenomenal person and he practices in Wilber and lives down between DeWitt and Plymouth and being a dentist, the input that he gets from the Agricultural Committee, he's just as good as any farmer or rancher out there for knowing what's going on. And so we said all right, we'll live with this. Then we said, we thought we had come to a truce. We said, you know, we're playing around with this Game Commission back and forth and every time we do it, it opens up a Pandora's Box or whatever the...is that a cliché? Pandora's Box? Slippery slope? Anyway, it's both those things. Any time you open this thing up, you're asking for trouble, and we were at a truce that we...both sides, the one-man, one-vote side and those of us that wanted the resources represented were at truce. And so the biggest reason we're against this bill is because we like the truce and we just want it to stay the way it is. It's not broke.

SENATOR SCHROCK: Thank you, Joe. Questions? Senator Smith.

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SENATOR SMITH: We cannot improve upon the situation we have now?

JOE HERROD: We can...we could vastly improve on the situation we have, but the only thing is, we've reached a truce and we're at a point, and we've opened this thing up again, and we'll end up exactly like was proposed in this room. They wanted to increase it to nine commissioners. Guess how many would have been from Omaha, guess how many would from Lincoln...

SENATOR SMITH: Okay. Okay.

JOE HERROD: ...and who would you have picked out from the guy...

SENATOR SMITH: Okay. Okay.

JOE HERROD: ...from western Nebraska, because...

SENATOR SMITH: Just...

JOE HERROD: ...would have been your only rep?

SENATOR SMITH: Settle down. Settle down. To whom is a particular commissioner accountable?

JOE HERROD: To the resources of the state of Nebraska.

SENATOR SMITH: And how do the resources make their voice heard?

JOE HERROD: Well, I have never heard them talk, but I think that in order to have a resource represented, you need somebody living out there with the resources, and that's what we're trying to protect.

SENATOR SMITH: And you see this proposal as a threat to that?

JOE HERROD: Pardon me?

SENATOR SMITH: You see this proposal as a threat?

JOE HERROD: I see this proposal as opening up...yes, I see

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it as a threat to opening this whole thing up at this time until we can bring something meaningful and put together a package like we've worked on with Senator Schrock, of trying to at least get some bare minimum standards set up to bring into that office. Now you talked about...one of the things that we'd like to have is people that actually sought the job. If you'll remember back, Connie Lapaseotes turned down the job two or three times. Initially, he didn't want it; he didn't want the job. I know one of the commissioners right now, we talked about in his confirmation committee here not too long ago that he wasn't the governor's first choice. He has turned out to be a really good commissioner, so we need...we don't need, we'd like to have the kind of input we used to have with Senator...or with Governor Kay Orr, who used to come, and understood natural resources, understood people that hunted and fished and camped and sought their input. We put a massive effort into the last couple of commissioners, as far as trying to find somebody that had taught hunter safety, had worked for conservation, worked for wildlife, spent some time, spent some effort, spent some money, and put them. And we gave a list of candidates to the governor. Now, the people that he selected probably will end up to be real good people, but we would like to have some input and this bill doesn't do a thing to give us any input. This thing puts partisanship back into it by eliminating the requirement of the political party. This guarantees...or puts the governor in an awkward situation of reappointment. Since he can reappoint, what does he do or not do? I think five years on, five years off, and the rare, rare occasion...if you multiply out the years that I'm talking about and the number of commissioners and the fact that three of them have ever been reappointed, and you look at the very unique circumstances, I doubt it would happen again. But I'll tell you what this bill would keep from happening is in another five years, is having Randy Stinnette back on that commission. And there could be nobody, nobody has ever done...I can't think of anybody that's ever been a better commissioner than Randy Stinnette, and I'd love to see him back in five years.

SENATOR SMITH: You said there are only three members that have been reappointed...

JOE HERROD: In my...

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SENATOR SMITH: ...in its history?

JOE HERROD: In my experience with the Nebraska Council of Sportsmen's Clubs, and I go back with the Sportsmen's Club, I remember testifying in Judiciary against Senator Chambers when he was recently elected. I think that goes back to before I was married, 35 years. There's only been three...

SENATOR SMITH: Okay.

JOE HERROD: ...that I know of.

SENATOR SMITH: Okay. I heard you say that a fishing or hunting license should be a requirement? Did I hear you correctly?

JOE HERROD: Well, I think it would be a real embarrassment to appoint somebody that had never had one.

SENATOR SMITH: Are there any other constituents of Game and Parks other than those who fish and hunt?

JOE HERROD: Absolutely, and they've been totally unrepresented on the commission as far as I know of. People that use parks and campgrounds just don't get represented. And one of the things that we would like to do is bring that in somehow, to get those kind of people in. But you can also talk about parks and you talk about a person like Commissioner Grewcock, he gives his money away real quietly and yes, he is powerful, but he is wealthy, but you can't imagine the things that he has done across this nation with his money to support certain things. So there's nothing all bad. Usually, when you complain about somebody being rich and powerful, there's one other thing that you usually have to be to be rich and powerful. You usually have to be successful, and there's nothing wrong with having successful people on the Game Commission.

SENATOR SMITH: Okay. Now, you're critical of the partisan component or lack thereof...

JOE HERROD: Now you're putting words into my mouth. I wouldn't say that I'm critical. I'm...

SENATOR SMITH: But you're...

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JOE HERROD: I think it's unfortunate...

SENATOR SMITH: ...criticizing the bill for not recognizing the partisan nature...

JOE HERROD: I think it's...

SENATOR SMITH: ...that needs to be recognized... .

JOE HERROD: ...unfortunate that that has not been recognized.

SENATOR SMITH: Okay. So if we put that back in there and remove the lifetime limit, would you support this?

JOE HERROD: Start over. You got me confused.

SENATOR SMITH: Okay. If we required partisan balance, political balance that we know is evaded now and then...

JOE HERROD: Circumvented. Circumvented...

SENATOR SMITH: Right.

JOE HERROD: ...it's a good word. Somebody brought that up the other day, yeah, it's a good word.

SENATOR SMITH: So, if we did our utmost to ensure political balance and allowed reappointment after a four-year period or something, would you support this?

JOE HERROD: No.

SENATOR SMITH: So you have other issues...

JOE HERROD: Well I don't think...I think the partisanship thing, I'm not sure Senator Erdman knew that that had been taken out. He didn't even mention that in his opening and it has been circumvented, but it definitely should not come out because at least, by leaving it in you're saying, hey, we want this to be nonpartisan.

SENATOR SMITH: Right. Okay, so I'm trying to get to see if we can have a compromise here.

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JOE HERROD: Well, you're trying to negotiate with me. I only represent the Sportsmen's Council and you're not the introducer...

SENATOR SMITH: Oh, I thought you...

JOE HERROD: ...of the bill.

SENATOR SMITH: ...you wanted to make recommendations...

JOE HERROD: What?

SENATOR SMITH: ...for the whole thing.

JOE HERROD: Pardon me?

SENATOR SMITH: I thought you wanted to submit recommendations for every governor. I mean, I heard you say earlier that...

JOE HERROD: I say...I say, you didn't introduce the bill and I only represent the Sportsmen's Council, so you and I negotiating something doesn't...just this doesn't really mean much.

SENATOR SMITH: And I'm only one of a...actually, one of 49, ultimately...

JOE HERROD: Yeah.

SENATOR SMITH: ...but I'm trying to get a sense of your opposition, and if we can accommodate your concerns and the concerns of Senator Erdman, I think we're all better off.

JOE HERROD: I don't see how this bill...what you're doing is making a bunch of commissioners automatically eight years because of the pressure that's put on them because it can happen, why doesn't it happen. It's nice now to say, you've got five years, do your best, and after five years if their interest is still up and they still want back and they have a ton of support because of what they've done, let them come back. What's the problem? It's only happened three times and in all three cases, it's because it worked before and they kept their interest up. They very much kept their

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interest up, so, and like I say, and I know Randy Stinnette is keeping his interest up, and in five years from now, I'd like to see him back. This bill would interfere with that. The five-year term means that a lot to me that if you had a shorter term, then with the shorter term of the governor then it doesn't spread this out of the political circles into the resource management. I'm...

SENATOR SMITH: I think...

JOE HERROD: ...probably not saying that very well.

SENATOR SMITH: I think the concern, though, is to bring about some accountability that some would view is lacking at this time. I'm not saying there is...

JOE HERROD: Yeah, I don't think...

SENATOR SMITH: ...accountability lacking, but I know that the resources can't speak and vote and...

JOE HERROD: The absolute...

SENATOR SMITH: ...and there needs...

JOE HERROD: ...the absolute... go ahead.

SENATOR SMITH: There, I guess, I don't see the world coming to an end if there are two four-year terms for a commissioner, and that adds a component of accountability.

JOE HERROD: I don't agree with you at all.

SENATOR SMITH: Okay. Thank you.

JOE HERROD: The accountability, and the last thing you ever want to do in anybody in any area of game management whatsoever will tell you, the last thing you'll ever want to do is put natural resources up into the electoral policy. Do you know in Colorado you can't trap? Do you know why you can't trap in Colorado?

SENATOR SMITH: Ballot.

JOE HERROD: Because they put it on the ballot and all of

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the...what do you...the people in Denver, the tree-huggers or whatever else decided that that rural lifestyle shouldn't exist anymore and people that lived up in the mountains that have trapped for years shouldn't be able to trap anymore. Think of how many people think that a poor duck shouldn't be shot. And we put something on the ballot and somebody runs on the basis of saying, I don't think ducks should be shot, and they get a bunch of people that have no idea what that is, that live in Omaha or something...no, so, let's not, let's not, let's not get into that.

SENATOR SCHROCK: Senator Kremer.

SENATOR KREMER: I heard you mention that people that we need to have people that want to be on the Game Commission.

JOE HERROD: Um-hum.

SENATOR KREMER: How does that fit with a four-year or five years; that make any difference?

JOE HERROD: Doesn't make nothing.

SENATOR KREMER: I thought you had...that was a point that was...

JOE HERROD: Yeah. It's just five years has been there since we were talking back there, and, you know, I don't hear very well and...but I think that we decided that it's been five years since 1951 and that's...once you start to tweak things, then it just opens up a lot of other things to get tweaked.

SENATOR KREMER: I have one other question.

JOE HERROD: Yeah.

SENATOR KREMER: I agree with you that we're looking at resources rather than what (inaudible) but, I guess I have a hard time feeling why this eight-year or two four-year terms violates that. It seems like that's in harmony with what you're saying.

JOE HERROD: Five years has worked since 1951; that's over 50 years. Once we start to tweak terms and political

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parties and all of these other things, it's going to come back and it's going to haunt...it's going to come back to start tweaking the other thing like districts and we're going...and I'm telling the Farm Bureau people and the Cattlemen, we thank them for their support when we fought this thing to get it the way it was and what we're saying right now is, it's not broke, let's don't try to fix it. Let's don't put a bill up there that allows for anything else to happen, more districts coming in, change of districts, more number of commissioners. It's just the kind of thing that you don't want to open up. We don't want to see it opened up. If somebody really got together and put a really good bill together that wasn't just a little crack in the door, but covered all of these other things, then, and the Cattlemen came and the Sportsmen and the Cattlemen and the Farm Bureau all got together as a united front, we could get something done because we're not fighting the Farm Bureau and we're not fighting the Cattlemen. We've fought to support keeping those resources represented out there by the people that live in that territory. We want to continue to do that. So I'd just like to see this particular bill die until we get a solid group of people all thinking the same way, like the Nebraska Cattlemen, like the Farm Bureau, what works for them, and just changing this thing, taking a five-year term and turning it into an almost automatic eight-year term, and putting the governor, you know, one governor that serves one term not having really any of his members on there. I mean, that whole thing...and you throw this bill out on the floor and you wait to see...I know, and I won't say his name, but I think we all know the first senator that would start sending up amendments and it's...we just don't need this out there with the amendments that could fly. The Farm Bureau people would suffer, the Cattlemen would suffer, and everything else. The only amendments that would ever come up on the floor on this thing would be nothing that they would be happy with and it would be nothing that the Sportsmen would be happy with. So I just think, just let this one die until we get something solid.

SENATOR SCHROCK: Any other questions? Senator Louden.

SENATOR LOUDEN: Yeah. Yeah, Mr. Herrod, my understand is that like Director Amack is hired by the commissioners?

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JOE HERROD: Yes.

SENATOR LOUDEN: I've always...nowadays at the Game and Parks, I mean they've increased their amount of acreage of land considerably probably in the last ten, 15 years...

JOE HERROD: Yep.

SENATOR LOUDEN: ...and I guess, times have changed and probably the Game and Parks isn't the same animal it was 25 or 30 years ago when we were worrying about they didn't have enough habitat and that sort of thing. Right now, they have, oh, I don't know, \$63 million budget or something like that and theoretically, there's nobody voted onto that any place. Those are all appointed people or hired, self-hired, or something like that to oversee that \$62 million bucks that we put out there every year. This is where I have a question...that I bring up the question, do we need elected officials to oversee something somewhere along the line or have some accountability for that back to the taxpayer?

JOE HERROD: Okay. I'm happy you asked that question. I'll tell you where the \$63 million came for was a tax imposed on themselves by the sportsmen called the habitat. And I know there are people in this state, and they're well represented on the Game Commission because Governor Johanns have appointed, and I don't know if the term that we're looking at is a kind of a people's first type of thing that resent any government buying any ground that the private people could buy or something. I know that that sentiment is in there and it's very hard, right now, to spend any of the \$63 million. And the reason that, you know, and if we don't keep acquiring habitat for wildlife is that a recreational opportunity and a tourism and an economic development is going to fall apart in this state, so we have to keep supplying what the people want. They want a place to hunt and fish and it gets to be a dilemma between the state competing for private ground, so that's one part. Now when you talk about the election or the responsibility, I hate to tell you, but the responsibility is right here in this room in the Natural Resources Committee. All of these commissioners in my time being, we've all talked ahead of time, but by the time the governor makes the appointment and it gets in the newspaper, they are automatically rubber stamped in this body in this committee, and they're rubber

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stamped out there on the floor. And I have been to a lot of the hearings before and I would be delighted to come to the into the hearing, which I'm going to come to next week, and ask these appointees. I mean, we never even want to ask them an embarrassing question, you know, did you seek this position or did they seek you? What have you done for wildlife conservation? Do you belong to any sportsmen's clubs? Have you ever donated any money? Have you ever donated any time? Have you offered your facility for a youth mentor hunt? Have you taught hunter safety education? When is the last time you fished? Where did you fish? When is the last time that you hunted? Where did you hunt? Have you ever camped out? Have you ever been in a park? And ask them these questions. And if they sit up here and don't look like a good commissioner, reject one some day. Maybe that will wake somebody up in the governor's office because that's what you're elected to do is to ask the questions and so that's where, that's how we get the voting thing into it. Get tough on somebody sometime. I'm not saying that maybe they don't have all the right answers, but I'll guarantee you, the last two sure weren't on the list that we came up with that we felt were great people, so they might be great people, but they aren't known to the sporting community, I don't think, in the state of Nebraska.

SENATOR SCHROCK: Other questions? Joe, just an observation. The unnamed senator has committed to not messing with...

JOE HERROD: That's right. That's the truce that I don't want to mess with.

SENATOR SCHROCK: ...commission districts or the number of districts.

JOE HERROD: Yep.

SENATOR SCHROCK: And I don't think this body is a rubber stamp for appointees. I have not seen a Game Commissioner rejected...

JOE HERROD: Yep.

SENATOR SCHROCK: ...but I've seen appointed to the Department of Environmental Quality that have been rejected.

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JOE HERROD: Good.

SENATOR SCHROCK: And I think if an appointee came to us that did not qualify, we would do something about it.

JOE HERROD: No, I...I...

SENATOR SCHROCK: But, I hear your concerns.

JOE HERROD: But you...

SENATOR SCHROCK: I hear your concerns.

JOE HERROD: But you don't know whether they qualify or not unless you ask them a few tough questions, just a few.

SENATOR SCHROCK: Okay.

JOE HERROD: And he's pretty good at asking tough questions.

SENATOR SCHROCK: And we assume if they aren't qualified, the Sportsmen Council will let us know ahead of time.

JOE HERROD: Well, we don't even know who they...they won't tell us who the appointment is. We read it in the paper just like you do.

SENATOR SCHROCK: All right, Joe. And no more questions? All right. Next opponent.

DICK TURPIN: Chairman Schrock and members of the committee, my name is Dick Turpin, T-u-r-p-i-n, Dick is D-i-c-k, for you folks from Burbank. Is that what they always say in the television? Most of what I was here to...I'm testifying on my own behalf. I'm not here representing anybody except myself, but I guess I come to this body from experience and there are three new members on this and some of this is going to be repetitive because I was here to testify on a commission hearing here not too long ago, and I was here to testify opposing a certain commissioner on two things that he stated in a newspaper when he was confirmed by the governor. Two things that concerned me as a person who hunts and fishes and runs out here in the out of doors of the state of Nebraska, which I love to do. But I didn't

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have to do that because this commissioner, this proposed commissioner, actually made those two statements before this committee. One statement was that he did not seek the position, that's been brought up here, and the governor had to ask him twice to get him to consider even being a commissioner. The second thing, the statement that he made in the newspaper, and I brought that with me so that I could, if somebody asked a question I could prove that the statement was made, was that yes, they asked if he had an interest in the out of doors, and his comment was yes, I do, but I also have an interest in the private ownership of land. Now, as a hunter and a fisherman, I can guarantee you that the last one, two, three, four times that I've hunted in this past, oh, couple of weeks, have all been on state-owned property, have all been on Game and...I've hunted on Game and Parks Commission property. That's where I do a lot of my hunting. It's the only opportunity I have, basically, without going through a whole hassle about trying to get permission because that's getting tougher and tougher. So that commissioner I'm concerned with because first of all, he didn't want the job, and I certainly would like to have somebody representing me that wanted the job. And I can count on my hands now, we talk about members. There were three different instances that I know that happened, so that kind of concerned me, the fact that they were not interested in public ownership of ground, and I know that's a sensitive issue of some landowners. It is with me. I'm a landowner now and I'd hate to see somebody come into my area and say, well, we're going to make this a public hunting area right next door. It would concern me; it would concern me because I like to have good neighbors. But this whole issue to me, as I sat here and started to listen to it just get more complicated and more complicated, I thought to myself, this is a nonissue. This bill is poor legislation and in my view, is a nonissue. It is totally, this last half hour, 45 minutes to me has been a waste, and that's the God's truth because until the process is improved, until the selection of those commissioners is made honestly and with good intent, I have no desire to have any kind of a bill introduced, anything changed. What I want to get done is I want to be sure that when that commissioner gets on, I don't care if gets on for four years, I don't care if he gets on for 20. What I do care is that he's a person that's concerned. I can set here and tell you that commissioners have been...I've been 40...well, I was 40,

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little over 40 years with Game and Parks. I outlived...well, I haven't outlived the last one, yet, but I've outlived three directors and I think Rex will probably outlive me, he's a little bit younger, but I've served under four different directors and I don't know, God knows how many commissioners. And I've seen good in my experience in those 40 years and I've seen bad. And in 19...I don't know that I'm right here, and if Mr. Bailey is going to testify he can correct me, but the noncode agency was established in 1951 and I'm not so sure that was when they went to five years, I don't know that. Joe stated that we talked that over and I said, you know, I can't think of any change in there, but in '51 is when Nebraska's Game and Parks Commission was made a noncode agency. And the reason for that was to keep it out of politics. That's why that happened. I can remember on many occasions when the governor stuck his nose into Game and Parks Commission business and wanted to do something that was not biologically sound and Mel Steen was setting in this building in his office with a newspaper reporter telling him why that was not going to happen, and Mel Steen got his way because we were a noncode agency. Now, in my 40 years, and I served under Mel Steen first, he was the one that hired me as a conservation officer, and in my 40 years with them I've seen that just slowly deteriorate, just slowly deteriorate. Recently Wes Sheets and I went down when the commission was being selected and it's public record, we went to the gal, the little gal that kept all the...she keeps all the (inaudible) of the commission. My god, there was like 30,000 people appointed to commissions in the state, something like that. Unbelievable, I couldn't imagine her responsibility. But we went through those applications and we picked out people that we actually knew, you know, some guy that had kind of stuck out. He'd been a member of the Pheasants Forever or the Elks Foundation; he'd been politically involved in wildlife issues, he'd been involved. He knew the issues, was not just interested in hunting and fishing, he knew the issues. So Wes Sheets and I set down and went through that pile. There were nine applications in that pile and this was around the 12th, 13th of September. A friend of mine said that the governor would like to have those letters, those applications filed by around the middle of September so he can make that appointment. We went down and looked at those, and we picked out three people that we thought were pretty good people because we knew who they

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were. We knew their background, and Wes drafted a letter and sent to Governor Johanns suggesting that these would be three people that he may want to choose from simply because they were responsible people that knew the issues, had an interest in the out of doors, hunting, fishing, camping, whatever, and we sent that letter. It was some two months later, I was in North Platte at Thanksgiving time and it came out in the paper, the governor had made that appointment. The person he appointed wasn't in that pile of applications. He wasn't there when we went through there and one of my friends that applied that was not picked, he was concerned because he said, god, you know, I really wanted that job and he was a person that had a pretty good background. But the person that the governor chose, he had to, of course, get his application in later. When I asked the young lady, I said, well, I thought there was kind of a deadline here for the 15th of September. Oh, she said, I think it might have been the 1st of October, she said. Well then I looked on that application, it was dated the 12th of October, so I said, well this one must have been a little late because it looks like it's the 12th of October. Then she said it may have been the 15th of October, so, you know, that process just, it just smells. If in this bill as it is now, if the selection of that commissioner is just at the whim of the governor, then I absolutely can't support this. I'm in disfavor of the way it is now because until we get...like Mr. Schrock or Senator Schrock has selected...or has suggested, some kind of a selection committee, some kind of a committee that's made up of people that area really interested in our natural resources that screen these applications and say, this is a good guy, this is a good guy, this is a good guy, pick out three, five, whatever the governor desires and submit that to him and he has to pick from that, then, then I think that criteria speaks well of itself. But until that changes, I'm totally opposed to this. You know, it's funny, I'm against term limits. You know when they passed that, I'm not one of the people that voted for that and here I am, you know, on the opposite end of this, you know. But the difference is in term limits, voting for one of you folks, I can do that, kids, I can get up there and vote for you. I can either help you win or help you lose, but I have absolutely no say in the selection of the person that represents me. When you ask who they represent, they represent wildlife, but they also represent the individuals that support it, that financially support

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it, and that believe in it, they also represent them. And I would dare to question whether there's...in your district, I'll bet you people know you because you get around, you talk outdoor issues, but I'll guarantee you there's a lot of these places where the commissioner hides. He don't want to be known by his constituents and that's wrong too.

SENATOR SCHROCK: Questions for Dick?

DICK TURPIN: Yes, sir.

SENATOR SCHROCK: Senator Smith.

DICK TURPIN: I see you going like this. You want to get out of here. Me too, I want to go rabbit hunting.

SENATOR SMITH: I heard it was a waste of time, but anyway...

DICK TURPIN: No.

SENATOR SMITH: ...I hear you say that we could improve upon our current process.

DICK TURPIN: Sure.

SENATOR SMITH: If we accommodated Senator Schrock's concerns and some of the other concerns voiced previously, including Senator Erdman's, could we count you on board?

DICK TURPIN: You mean, on this bill?

SENATOR SMITH: Yeah.

DICK TURPIN: No. No, no, no, no, no.

SENATOR SMITH: Oh, so okay, but...

DICK TURPIN: The partisanship here bothers me, but go ahead.

SENATOR SMITH: And we included that concern, would that? Because I...

DICK TURPIN: Nah.

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SENATOR SMITH: No. Okay.

DICK TURPIN: Nah, no, no.

SENATOR SMITH: Do I hear you saying that the sportsmen should make the appointment?

DICK TURPIN: No, no, no. I don't say the sportsmen should make the appointment, but I do think that the sportsmen, there ought to be a selection committee made up of sportsmen, and I don't care who it includes, the campers, the hunt...

SENATOR SMITH: Only sportsmen?

DICK TURPIN: Right. I mean, who else? Who else?

SENATOR SMITH: Are sportsmen the only supporters of Game and Parks? Only fee providers?

DICK TURPIN: Well, I mean, the people who take advantage of anything Game and Parks has the rule...has the jurisdiction over the camping, the hunting, the fishing, whatever, yeah. I mean, that's selfish, I guess, but that's what I look at is the hunter and fishermen. I want my representation to be somebody that does that, that hunts and fishes.

SENATOR SMITH: Okay. Thank you.

DICK TURPIN: Any other questions?

SENATOR SCHROCK: Senator Kremer.

DICK TURPIN: Yes.

SENATOR KREMER: Well, your concerns that you've expressed really are concern no matter whether it's two four-year terms or a five-year term was...

DICK TURPIN: It's how...that's right.

SENATOR KREMER: But you're talking about other concern rather than this bill then. Is that right?

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DICK TURPIN: That's right.

SENATOR KREMER: Okay.

DICK TURPIN: And until that's changed, then I see no need for any bill. I mean, we can get along fine right now with five years if that process is changed in how they make that selection. The last two selections, the last two selections, when they gave me the names of those people, when I found out it just comes out in the newspaper because nobody has any...I mean, you don't know when it's going to happen, I absolutely had not heard of either one of them in the outdoor field. I mean, and I get around a lot. In 40 years, my god, I know a lot of folks that circulate in the out of doors, and I didn't know, I mean, I thought, now where did this guy come from, what's his background, what does he do? I mean, how did he qualify for this? There ought to be some lead in there that tells me he is a person who's paying the bill here. I think you're a little heavy on that general fund, you said, half Game and Parks, Senator Louden?

SENATOR LOUDEN: Pardon?

DICK TURPIN: Oh, you said that half the budget of Game and Parks was general fund money?

SENATOR LOUDEN: No. I said, way less than half.

DICK TURPIN: Oh, yeah, it's 20 some percent; when I left there, anyway, it was 20 some percent, yeah.

SENATOR LOUDEN: Nine or \$10 million out of the \$62 million.

DICK TURPIN: Yeah, yeah. And most of that goes to parks, by the way. The bulk of that is the parks' end, not the wildlife end of it. I just thought I'd clarify that too, so.

SENATOR SCHROCK: Other questions?

DICK TURPIN: Anybody else? Yes.

SENATOR LOUDEN: Yeah

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DICK TURPIN: I'm sorry. I'm sorry.

SENATOR LOUDEN: I'd certainly agree with you that there probably should be a selection committee, right? You feel that...

DICK TURPIN: Yes.

SENATOR LOUDEN: Yeah...

DICK TURPIN: And I'll tell you...well, go ahead, I'm sorry.

SENATOR LOUDEN: I guess then my question is, do you feel that voters would be a good enough selection committee?

DICK TURPIN: See, and yeah, you brought that up a couple-three times and each time I knew you were going to ask me that. But...

SENATOR LOUDEN: Well...

DICK TURPIN: But I...

SENATOR LOUDEN: I wanted to ask somebody...

DICK TURPIN: But I just well, but, yeah, I...

SENATOR LOUDEN: ...that knew something about Game and Parks.

DICK TURPIN: Well, here's the thing. I look at that, I just reflect and I think to myself, no, what you're doing is you're getting back into the political scene again then. You're electing this person, you know, and that election process is like, I don't know, it's almost like you're back into the partisanship. And I can tell you that, I mean, honest to God, trust me when I say this, the management of our renewable wildlife resources can ill afford to be legislated by politics. That just don't work and that bothers me that that keeps just kind of inching its way in to our management. The bill that we drafted that Senator Schrock looked at, we had this drafted up, we had...I mean, we had it in the language and everything, and that was to appoint the selection committee, which the governor did, with some restriction, I mean, with some guidelines, he

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appointed his people, so that didn't take the governor clear out of the loop. But they had guidelines and the governor had to appoint certain people that had certain backgrounds, and then their selection in this, their screening, there were stipulations in that. They had to screen these people and they had to be of a certain caliber, so the kind of people you'd want in there representing you, the kind of Randy Stinnettes and the Mark Pinkertons, that's what you're looking for. And so I had no problem with that. I think that bill would have been good. And the governor still has his hand in it; it isn't like you're taking a perk away from the governor. He can still have some...and he appoints those folks and then they pick from that; he's still got a hand in it. Right now, I'm really skeptical of the process. I am. And I'm still skeptical of the process since this bill passed. I'd still be skeptical of the way it's handled, so I'm back to that. And the election process, I don't know. We've argued that pro and con, tell you the truth, and there's sometimes I thought it might not be bad, and there's sometimes I thought...

SENATOR LOUDEN: One more question, then.

DICK TURPIN: Yes, sir.

SENATOR LOUDEN: I kind of wanted (inaudible)...

DICK TURPIN: God, I've got three more answers though, I... (Laughter)

SENATOR LOUDEN: Do you think the director should be appointed by the governor, sort of like the director of Agriculture?

DICK TURPIN: No. Honest to God, I think that process is pretty good. I honest do. I honestly do. If those commissioners were selected legitimately, I think that's a good way to do that because then you've got those eight members or whatever you wind up with. You know, if we wind up with 15, I don't care, if they're selected properly. But then you've got those people that are really dedicated to it, have a knowledge of the problems, know what they're doing, and they select that director, I really don't have a problem with that. I can't speak for anybody, just myself, but I honest to God don't have trouble with that. I think

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that's probably a pretty good process. Anybody else?

SENATOR SCHROCK: Dick, just an observation.

DICK TURPIN: Yes.

SENATOR SCHROCK: Game and Parks doesn't go out and buy land, they get land donated to them, and then if they can trade that for something that is more suitable for habitat, they'll do that. But they don't actively go out and seek the purchase of land...

DICK TURPIN: Ordinarily, that's offered to them. You know, it's somebody comes forth from the family estate and says that. And then the other thing I don't think a lot of people understand is, and I remember the first time we met, I was talking at the water...the water deal up in Ord. It was some kind of a water...there was a bunch of guys there that worked with irrigation and you and Senator Jones were there. And Senator Jones was talking about a purchase we'd made that kind of went south on us and there was a lot of information there. I thought Senator Jones really didn't know the issues and I kind of, when I get up to talk, I wasn't in the political scene at all, but I did straighten that mess out because in fact, when we take property like that, there have to be public hearings. You know, everybody gets their kick at the pup; when you go out there to take over that land, like next to you some guy said, oh, we have a public meeting so everybody can testify pro or con, and there are a lot of times we don't take the land simply because there's too much resistance in the community toward it, so they don't take it. But there have to be those public hearings, you have to go around and do that so everybody knows what's going on, and when that land, then, is offered up, if we get it, then of course we pay a fair value for it. And if it's wildlife land, we pay the taxes on it. If it's parks' ground, I think they pay half. Parks don't pay all the taxes, but the wildlife people pay taxes every year just like everybody else on that property. And that had to be because for a while we didn't, we paid in lieu of, and finally they got around to where the hunter and the fishermen because they have to keep paying more and more money, but they have to because we got that property to take care of also. And they're doing that, they're paying the taxes on it, so anyone else?

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SENATOR SCHROCK: Thank you, Dick. We appreciate...

DICK TURPIN: Yes.

SENATOR SCHROCK: ...you being here today.

DICK TURPIN: Well, I appreciate being here, and of course, my statement always is, I think it's a Shelley Berman statement, at my age, I'm tickled to death to be anywhere, you know. Well thank you very much, anyway; thank you.

SENATOR SCHROCK: I enjoy your TV program...

DICK TURPIN: Thank you, sir.

SENATOR SCHROCK: I see you once in a while. We enjoyed your input at our interim study hearings, this summer up at...

DICK TURPIN: Thank you.

JODY GITTINS: Fort Robinson.

SENATOR SCHROCK: Yeah. Not Fort...

BARB KOEHLMOOS: Atkinson.

SENATOR SCHROCK: Fort Atkinson, that was good. Mr. Bailey, how are you?

WILLIAM BAILEY: Yes. Mr. Chairman, members of the committee, my name is Bill Bailey. I live at 7931 Hickory Lane...

SENATOR SCHROCK: Spell that for us.

WILLIAM BAILEY: ...Lincoln...

SENATOR SCHROCK: Spell that for us, Bill.

WILLIAM BAILEY: Pardon me?

SENATOR SCHROCK: Spell that for us.

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WILLIAM BAILEY: B-a-i-l-e-y.

SENATOR SCHROCK: Go ahead.

WILLIAM BAILEY: Live at 7931 Hickory Lane, Lincoln, Nebraska. I'm an avid fisherman, hunter, use the recreational resources of the state, and I'm deeply interested in the management of all those resources, and the people who use them. I served 38 years with the Game and Parks Commission, 22 years of those 38, I served as the assistant director under three different directors. First, Willard Barbee, Eugene T. Mahoney, and the current director, Rex Amack. I have never known the term of the commissioners and the politics of the commissioners to be an issue, and I was pretty close to the commissioners at that time. Obviously, I've served under quite a few of them as assistant director. I think the system that we have with the existing statutes is good. I'd have to commend the framers of that and their thoughts or what I would imagine their thoughts were when they put it together. By dividing the commission so that there could be no more than four of one political party, I think they were trying to rule out the, and I'm not going to use this in a derogatory sense, or at least I hope I don't, the political considerations that may accompany, at times, partisan politics. The commission has had any number of contentious issues that they've had to deal with, many of which I don't think any of our major parties would want to be involved in or endorse or in any way be a part of it. One is the conversion of lead shot to steel shot for hunting waterfowl. I don't think the Republicans or Democrats, either one, would want to be involved in that. It was a very contentious issue and it was not a real popular issue with hunters. But the commission bit the bullet and did what was right for the resources. The five-year term and the staggered appointments, in my opinion, do provide for institutional memory. We've always got commissioners on that have served three to four years, so I don't think institutional memory is really a problem. The interest in those resources may be a problem to some people. The statute on that, in which they say they should be knowledgeable of wildlife conservation and so on is a pretty broad statement. If they were truly interested in wildlife conservation and had some knowledge of wildlife conservation, it would be one thing, but it is an ambiguous or a very broad statement that really

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doesn't mean too much when it comes down to the actual appointments. I'd just sum...oh, I don't want to take up any more of your time, but I would just sum up my view and that the system, I think, has worked very well over the years for the people in Nebraska, for the resources of Nebraska. It's not broken. And if it's not broken, why try to fix it? Thank you.

SENATOR SCHROCK: Thank you, Mr. Bailey. Questions? An observation maybe, if you had two four-year terms, you could have half of the commissioners that would be eligible to be reappointed. Now, I know Governor Nelson was a big advocate in releasing pheasants, and I know at the time the commission said, doesn't work, so Governor Nelson could have said, if you're not for releasing pheasants, I'm not going to reappoint you. Is that a concern?

WILLIAM BAILEY: That would be a concern, yes. I think that's getting into somewhat partisan politics, you know, and which not only partisan politics, there was a great deal of pressure put on Governor Nelson at that time. And I was not a part of it, I had retired by that time. But there was a great deal of pressure that had been put on him by some very influential people, but not the sportsmen. The sportsmen, the organized sportsmen of the state adamantly opposed it, adamantly opposed that policy and that particular action, but he was able to push it through.

SENATOR SCHROCK: Okay. Any other questions? Thank you, Mr. Bailey.

WILLIAM BAILEY: Thank you.

SENATOR SCHROCK: Next opponent? This the last opponent? The opponents have had more time than the proponents, so we'll make this one quick, okay?

PHIL SOMMERFELD: That's good. Senator Schrock and other committee members, thank you. My name is Phil Sommerfeld, S-o-m-m-e-r-f-e-l-d and I live down by Roca. Do you need the whole address?

SENATOR SCHROCK: How's that?

PHIL SOMMERFELD: Do you need the whole address?

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BARB KOEHLMOOS: No.

SENATOR SCHROCK: No. Uh-uh.

PHIL SOMMERFELD: Okay.

SENATOR SCHROCK: It's on the green sheet, I think.

PHIL SOMMERFELD: Okay. There's been a lot of good comments. I'm not going to take a lot of time and Senator Schrock doesn't know it, but he's helped me out a great deal already. I represent the Lincoln Izaak Walton League, which has 600 family members of hunters and fishers and sportsmen and conservationists, and of course, we have a lot of interest in what goes on in the Game and Parks Commission. And one of my duties today was to deliver a letter from Wes Sheets; there's where you've helped out...

SENATOR SCHROCK: Yeah.

PHIL SOMMERFELD: And I can help out because I've got copies for each of the...

SENATOR SCHROCK: All right. And we appreciate that, Phil.

PHIL SOMMERFELD: ...the committee, so.

SENATOR SCHROCK: Eric, want to pass them out?

PHIL SOMMERFELD: All right. That completes my presentation. If anybody has any questions, why.

SENATOR SCHROCK: Any questions? Senator Smith?

SENATOR SMITH: Do you see any accommodation of differing points of view here with a compromise?

PHIL SOMMERFELD: Probably not. I've talked to several people about it with extensive backgrounds, and the politics part of it is a pretty sensitive issue.

SENATOR SMITH: So if we returned the political balance to it, accommodated Senator Schrock's screening mechanism, and omitted the limits, still a bad bill?

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PHIL SOMMERFELD: Yeah, because we already talked and heard testimony today about going around the political part of it, and I don't see a solution to that.

SENATOR SMITH: Okay. Then we get rid of that.

PHIL SOMMERFELD: Yeah, I don't see a solution to that, so I don't think it's a workable bill.

SENATOR SMITH: Okay.

SENATOR SCHROCK: Phil? Any other questions, not from Senator Erdman, but for Phil Sommer...

PHIL SOMMERFELD: Sommerfeld.

SENATOR SCHROCK: Sommerfeld. Any other questions? Thank you.

PHIL SOMMERFELD: Thank you.

SENATOR SCHROCK: Is there other opponent testimony? Is there neutral testimony? Senator Erdman, you are recognized to close.

SENATOR ERDMAN: Mr. Chairman, I may want to retract my previous comments about where I would have wished to have been the last couple hours. I do think it was interesting, but it had most nothing to do with the bill because a couple individuals, I don't think, fully read the proposal, specifically, Joe. The bill says that the person would be eligible for reappointment. It does not say that they are going to be automatically reappointed. They would have to go through the same process and in fact, it would probably be harder for that individual to get reappointed because, evidently, they don't agree with anybody that's been appointed recently, so it would be near impossible for that person to get reappointed because they would be even more invigorated to oppose an individual's appointment. So I'm trying to sort through all this stuff. Senator Kopplin, your comments are accurate. It was not my intention to remove the provision on the political parties. I appreciate you pointing that out and I did not mention that in my opening. The idea that somehow LB 23 is a violation of a

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deal that was struck is new to me, because when we were debating the proposal that now stands in statute on the floor, I had actually made the exact comment, and if the individuals who testified here would like to get a copy of it, I'm sure we could accommodate them, that I would do exactly what I'm doing, that I would bring the proposal because it was not included in the discussion. Again, the governor is a big person, whether it's a male or a female. They have a lot of responsibility. If the governor can make the decision on whether or not to pardon a killer, I'm pretty sure they can make the determination on whether or not they can stand up to a political appointee or group who would like to see them reappointed if they feel it's not in the best interest of the state. The Izaak Walton letter I think is interesting. I think it's important for them to have their opinion. As I read the letter, they're opposed to the existing commissioners, not specifically anything in here dealing with the bill. Their concern is, is that the bill doesn't solve the problem that they see and that is the fact that they don't like the way...they don't like the current members of the commission and so therefore, they don't like anything that would change unless it changes that. They did point out the party lines issue that Senator Kopplin also pointed out and I do apologize for that oversight. It would have been amazing to know what the commission would have accomplished if a guy like Tom Plummer would have been able to serve another term. Now, I'm biased. I recognize Tom comes from Ogallala; I recognize that he has the interest of one of my main attractions, if you will, at heart, and that is the Lake McConaughy area. Granted, Tom has been successful in doing great things, I think, for the state, both for the commission while he was on it, as well as the long-term benefit of the state by securing funding and continuing to secure funding for the visitor center that is out there. It's an example of the opportunity that was presented to him, but he had to use other means in order to accomplish that. Senator Schrock pointed out other areas where public policy may have changed, if a governor would have had the opportunity. And finally, let me share with this. I'll take that back, I have two things. One, there is more...there are numerous opportunities to hunt in the state of Nebraska. Last year, this committee was gracious and the Legislature was accommodating in passing a law that is currently being discussed even today. Today we're having a hearing in

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Oshkosh in the Garden County refuge on where the proposed rules will be for the line on that boundary, all privately owned, right along the river, landowners came together and said, we want to petition the state to protect hunting for our own benefit and for the benefit of those who would come to seek to use this opportunity. So today, this evening, the Department of Natural Resources is currently conducting hearings and they'll make determinations and gather information for rules to ensure that there is land and opportunities available. Now, is it a lot easier for the people that own that land right along the refuge. I bet it is. I absolutely bet it is, but there are opportunities out there. My district is a great example of the recreational opportunities that this state has to offer and I know that because every person, it seems, in this state that has any money or is politically connected comes out and tells me they were out in my district hunting, whether it be geese, whether it be deer, or whatever it is, or whether they'd be out at Lake McConaughy. But it's also a great opportunity for those people who live there and we don't take lightly the opportunity. I guess I would say this in closing. It appears that two of the three cogs in this wheel are together on this issue, and if Joe wants to come over on our side, we're there because the ideas that are espoused here have the support of those groups that they have worked with in the past and we would be willing to work with them in the future, and specifically on LB 23 with Senator Schrock's idea, to come to something that makes agreement, so I guess, tongue-in-cheek, I would offer that to Joe. If he comes over to our side, we're all on the same team. But ultimately, I think this is the reality. We are all on the same team. We may have a difference of opinion of how to get there; we may have a difference of opinion of what policy should be in order to ensure that to happen, but I would hope that the discussion and the deliberation by this committee is based on the actual facts of the process involved, not taking into consideration whether or not certain groups are pleased with the people that have been appointed. I think those are addressed elsewhere. And if there's any questions, Mr. Chairman, I'd try to answer.

SENATOR SCHROCK: Thank you, Senator Erdman. Questions?  
Senator Hudkins?

SENATOR HUDKINS: Senator Erdman, in the letter from the

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Izaak Walton League, there's a statement in there that says, "the provisions of LB 23 do not meet the goal of improving the oversight of our most precious natural resources the fish and wildlife of our state." How do you think that LB 23...or what are your comments to that statement?

SENATOR ERDMAN: I did make comments earlier, and I'm sure Wes will call me and discuss them with me. The concerns that the Izaak Walton League has is with the existing appointees, and as I said earlier, unless we would somehow figure out a way to kick some of the people off that they don't like, they probably wouldn't be pleased with anything that we do, just as we heard the testimony of others who want to be the gatekeeper to ensure who gets to put on there. There is no way to ensure that the people that I want to get appointed to committees or commissions get appointed, whether they're my constituents or not. We went through a process in the executive board where they kicked off the most accurate forecaster of the last 20 years who never missed a meeting, okay? He was kicked off. I worked to ensure that that person got back on; that didn't happen. Now, does that mean that I run to the Legislature and say that we should ensure that somebody from west of Grand Island serves on the Economic Forecasting Board? That would be a great idea because currently, there aren't any. But I'm not crying in my soup here. I'm recognizing the limits. The proposal of improving our fish and wildlife is not based on any given members who are appointed. Someday, and maybe someday soon, there will be a governor who will appoint individuals either directly by asking the sportsmen or by actually appointing them without having to ask and getting the right person that they want and they'll serve on the commission. And they may come back and say, boy it would be great if we could keep these people on. It's a two-way street. It's based on who the governor is; it's based on who the available applicants are, and then there's no way to say that by opposing LB 23, that we'll have a better...we'll have better use or have a better goal than proving the oversight of our natural resources or fish and wildlife because it's not up to what the statute is; it's up to who's elected governor and who they appoint to the commission, and who we as a Legislature approve. If this process is outlined here, which I firmly believe allows for more flexibility to ensure the best goal, and that is improving the oversight and making sure it's adequate to

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promote our natural resources for everyone, not just sportsmen. You know, Colorado and all these other states, they're anomalies. They're doing stupid things in those states that I can't even imagine. But from the standpoint of what we're trying to accomplish here, we got to do what's best for Nebraska. I firmly believe that LB 23 would accomplish that.

SENATOR HUDKINS: Thank you.

SENATOR SCHROCK: Other questions? Thank you, Senator Erdman. That will close the hearing...

SENATOR ERDMAN: Thank you.

SENATOR SCHROCK: ...on LB 23.